Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.33 OF 2020

RAWMET RESOURCES (P) LTD.,
REP. BY ITS GENERAL MANAGER,
SANJAY KUMAR BEHURA. … Petitioner

Versus

UNION OF INDIA, REP. BY
THE SECRETARY AND 2 ORS. …Respondents

Mr. H. D. Naik, Advocate for the Petitioner.
Ms. Asha Desai, Senior Standing Counsel for the Respondents.

CORAM: M. S. SONAK &
BHARAT P. DESHPANDE,JJ

DATED: 4th OCTOBER 2022

P.C.:

1. On 18.08.2021, while issuing rule in this petition, we had made the following order:-

> *"1. Rule, returnable in two weeks.*
>
> *2. Liberty is granted to the parties to apply for enlistment as and when the appeal from the judgment of the Gujarat High Court in the case of M/s. Mohit Minerals Pvt. Ltd v. Union of India is decided by the Supreme Court."*

2. Today, Mr. Naik, learned counsel for the Petitioner tenders a copy of the judgment and order dated 19.05.2022 in ***Civil Appeal No.1390 of 2022 (Union of India and Another Vs M/s Mohit Minerals Pvt. Ltd., Through Director).***

3. Mr. Naik and Ms. Desai submit that in terms of the above decision, the Hon'ble Supreme Court has upheld the decision of the Gujarat High Court in ***M/s. Mohit Minerals Pvt. Ltd. Vs Union of India.***

4. Accordingly, they submit and agree that the rule in this petition can be made absolute in terms of the prayer clauses (a) and (b) which read as follows:-

> "(a) That this Hon'ble Court be pleased to issue a appropriate Writ declaring that in case of CIF Contracts, when IGST having been paid on full value of the imports, further imposition of IGST on Ocean freight vide Notification No.8/2017-Integrated tax (rate) dated 28.06.2017 and Entry 10 of the Notification No.10/2017-Integrated tax (rate) dated 28.06.2017 at the prescribed rate all over again lacks legislative competency and is ultra vires to the IGST Act, 2017 and hence unconstitutional;
>
> (b) Declare that the payment of IGST at the prescribed rate all over again on ocean freight due to impugned Notification No.8/2017-Integrated tax (rate) dated 28.06.2017 and Entry 10 of the Notification No.10/2017-Integrated tax (rate) dated 28.06.2017 is not payable where IGST having been paid on CIF value."

5. Further, in the context of relief in terms of prayer clause (d), Ms. Desai submits that the Petitioner may apply for refund and such application will be processed in accord with law within eight weeks from the date of its receipt. Mr. Naik is agreeable to the adoption of this course of action.

6. Accordingly, rule is made absolute in terms of prayer clauses (a) and (b).

7. In so far as the relief in terms of prayer clause (d) is concerned, we permit the Petitioner to apply for refund and direct the concerned Respondents to process and dispose of its application in accord with law as expeditiously as possible and in any case not later than eight weeks from the date of its receipt.

8. The petition is disposed of in the aforesaid terms. There shall be no order for costs.

BHARAT P. DESHPANDE, J **M. S. SONAK, J**

TARI AMRUT NAGESH Digitally signed by TARI AMRUT NAGESH Date: 2022.10.06 10:25:48 +05'30'