IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5138 OF 2021

Maha Arvind Roadways Pvt. Ltd. … Petitioner
Versus
Commissioner of Central Tax and Ors. … Respondents

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Mr. Bharat Raichandani i/by Mr. Sangram Chinnappa for the Petitioner.
Mr. J. B. Mishra a/w Mr. D. B. Deshmukh for the Respondents.

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CORAM: R. D. DHANUKA AND
S. M. MODAK, JJ.

DATE : 3rd JANUARY, 2022.

P.C. :-

. Rule. Mr. Mishra, learned counsel for the respondents waives service. By consent of parties, petition is heard finally.

2. Learned counsel appearing for the parties invited our attention to the order dated 20th December, 2021 passed by a Division Bench of this Court directing that the order dated 4th August, 2021 of the Department declining to revoke the cancellation of registration, at page 24 of the writ petition, shall remain in abeyance until further orders. This Court accordingly directed the Revenue to intimate the petitioner the quantum of balance tax dues by 22nd December, 2021. It was further directed that depending upon deposit, if any made, this Court would pass further orders on the returnable date.

3. Mr. Mishra, learned counsel for the Revenue invited our

attention to the averments made in paragraph 16 of the writ petition and would submit that even according to the petitioner, balance of Rs.90,09,874/- still remains payable towards GST dues. The petitioner has not deposited the said amount till date. He submits that the application for revocation of cancellation of registration would be considered only if the petitioner deposits atleast the amount of Rs.90,09,874/- with the Revenue. It is submitted that though according to the petitioner, the petitioner is liable to pay much more amount as stated in paragraph 13 of the writ petition, the petitioner has filed Nil GST Returns. The Department has to pass an assessment order in respect of such Nil GST Returns filed by the petitioner.

4. Mr. Raichandani, learned counsel for the petitioner on instruction states that his client is ready and willing to deposit the said amount of Rs.90,09,874/- with the respondents within two weeks from today, without fail. Statement is accepted.

5. Mr. Mishra, learned counsel for the Revenue states that by communication dated 29th December, 2021, the Assistant Commissioner, Central GST, Division-IV, Sangli has already informed the petitioner that for the purpose of deposit the balance tax dues, the portal is already opened and the tax payers can deposit of the balance tax dues. Copy of the said letter dated 29th December, 2021 is taken on record. The learned counsel for the petitioner states that in view of the said statement made in the said letter dated 29th December, 2021, the petitioner will deposit the amount on the portal already opened within the time prescribed. Statement is accepted.

6. It is made clear that upon the deposit of the said amount of Rs.90,09,874/-, the registration of the petitioner under CGST Act read with MGST Act, which is withdrawn shall stand restored without prejudice to the rights and contentions of the revenue. The revenue would be at liberty to decide the application for restoration of the registration of the petitioner upon deposit of the said amount of Rs.90,09,874/- and shall pass an order within three months from the date of such deposit of the amount. The order that would be passed, shall be communicated to the petitioner within one week from the date of passing of such order. If the said order is adverse against the petitioner, the same shall not be implemented for the period of one week from the date of communication of such adverse order.

7. Insofar as the communication dated 22nd December, 2021 from the Superintendent, Central GST, Range-V, Div-IV, Sangli to the petitioner stating that the total GST outstanding liability of the petitioner is in the sum of Rs.3,65,14,056/- is concerned, it is not in dispute that the investigation against the petitioner is still pending. We do not express any views on the merits of the said communication dated 22nd December, 2021 at this stage.

8. It is made clear that this Court has not gone into the correctness of the impugned order passed by the respondents thereby de-activating the registration of the petitioner under the CGST Act read with MGST Act.

9. It is made clear that if the said amount is not deposited by the petitioner within the time prescribed, the impugned order dated 4th August, 2021 rejecting the revocation of the registration of the petitioner to stand restored.

10. Writ Petition is disposed of in aforesaid terms. Rule is made absolute accordingly. There shall be no order as to costs.

11. Parties to act on an authenticated copy of this order.

[S. M. MODAK, J.] **[R. D. DHANUKA, J.]**