

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11171 OF 2018

Cargill India Private Limited : Petitioner.
Versus
The Union of India and ors. : Respondents

WITH
WRIT PETITION NO.8426 OF 2019

Bhilosa Industries Pvt. Ltd. : Petitioner.
Versus
The Union of India and ors. : Respondents

WITH
WRIT PETITION NO. 8275 OF 2018

KKalpena Industries Limited : Petitioner.
Versus
The Union of India and ors. : Respondents

WITH
WRIT PETITION NO.12108 OF 2018

Frigorifico Allan Pvt. Ltd. : Petitioner.
Versus
The Union of India and ors. : Respondents

WITH
WRIT PETITION NO.8318 OF 2019

West India Continental Oils & Fats Pvt.Ltd. : Petitioner.
Versus
The Union of India and ors. : Respondents.

WITH
WRIT PETITION STAMP NO.2820 OF 2021 (Not on Board)

Liberty Oil Mills Limited : Petitioner.
Versus
Union of India and anr. : Respondents.

Mr. Jas Sanghavi a/w Mr. Mohit Rawat i/by PDS Legal for the Petitioners in Writ Petition Nos.11171 of 2018, 8426 of 2019, 8275 of 2018, 12108 of 2018 and 8318 of 2019.

Ms. Ankita Vashistha i/by Economic Laws Practice for Petitioner in Writ Petition Stamp No.2820 of 2021 (NOB) (By consent taken on board).

Mr. Pradeep S. Jetly, Senior Advocate with Mr. P S. Patkar for Respondents in Writ Petition Stamp No.2820 of 2021 (NOB) (By consent taken on board).

Mr. Ram Ochani for Respondent Nos. 1 to 5 in Writ Petition No.8318 of 2019.

Mr. Ashutosh Misra for Respondent No.1 in Writ Petition No.11171 of 2018.

Mr. Pradeep S Jetly, Senior Advocate a/w Mr. Jitendra B Mishra, Mr. Dhananjay B Deshmukh for Respondent Nos.2 in Writ Petition No.11171 of 2018.

Mr. Pradeep S Jetly, Senior Advocate a/w Mr. Jitendra B Mishra and Mr. Dhananjay B Deshmukh for Respondent Nos. 1 & 2 in Writ Petition Nos.8275 of 2018 and 12108 of 2018.

Mr. Sham Walve & Ms. Maya Majumdar for Respondent Nos. 1 to 4 in Writ Petition No.8426 of 2019.

CORAM : K. R. SHRIRAM &
A.S. DOCTOR, JJ.

DATED : 10th AUGUST 2022

P.C.

1 Counsel for Petitioners state that the issue raised in these petitions is squarely covered by the recent judgment of the Apex Court in ***Union of India Vs. Mohit Minerals Pvt Ltd. through Director***¹ Counsel for Respondents in fairness agree.

2 Therefore we hold and declare that Serial No.10 of the Notification 10/2017-Integrated Tax (Rate) dated 28th June 2017, read with

1 . 2022 SCC Online SC 657

Section 5(3) of the IGST Act, with Notification No.8/2017-Integrated Tax (Rte) dated 28th June 2017, and corrigendum dated 30th June 2017 to Notification No.8/2017-Integrated Tax (Rate) to the extent they seek to impose IGST on the impugned Transaction to be unconstitutional. Petitions disposed.

3 Wherever refund is payable, the same shall be paid within eight weeks of receiving the copy of this order with applicable interest in accordance with law.

4 At the request of Mr. Sanghavi Writ Petition No.8275 of 2018 is excluded from this group of matters. It be listed for final hearing on 29th September 2022.

[A.S. DOCTOR, J]

[K. R. SHRIRAM, J]