

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO.939 OF 2023**

M/s R.K. Patel and Co. Tobacco  
Processors

Petitioner

Versus

Union of India and others

Respondents

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Mr.S.S. Jadhavar, Advocate the for petitioner  
Mr. Ajay Talhar, standing Counsel for Respondent-Union of  
India.  
Mr. S J. Salgare, AGP for respondent-State.

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**CORAM : S.V. GANGAPURWALA, ACTING C.J.  
& GAURI GODSE, J.**

**Date : 24<sup>th</sup> January, 2023**

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**PER COURT :-**

1. We have heard learned counsel Mr. Jadhavar, for the petitioner.

2. Mr. Jadhavar, learned counsel submits that the impugned show cause notice is contrary to the judgment of the Apex Court in the case of Tarai Foods Ltd., Vs. CCE, Meerut-II reported in 2006 (198) ELT 323 (SC) and also the judgment in case of CCE, Ahmedabad-II Vs. Borsad Tobacco Co. (P) Ltd., reported in 2016 (334) ELT 194 (SC).

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3. Mr. Talhar, learned counsel submits that petitioner has already filed reply to the show cause notice and the authority will take decision on the same.

4. The petitioner has only challenged the show cause notice. The petitioner has already filed reply to the show cause notice. Naturally, the authority is required to consider the reply and grounds raised by the petitioner to the show cause notice while deciding the show cause notice. Even, the petitioner has a remedy available under the Statute.

5. In light of that, we pass following order.

#### **O R D E R**

- i. The authority shall consider the reply filed by the petitioner and the law that may be referred to by the petitioner and take decision on its own merits.
- ii. All contentions of the petitioner are kept open.
- iii. Writ Petition is disposed off. No costs.

( GAURI GODSE, J. )

( ACTING CHIEF JUSTICE )

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