IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1039 WRIT PETITION NO.11908 OF 2022

M/S MEERA MEDICAL AND GENERAL STORES THROUGH ITS PROPRIETOR MININATH SANJAY KAWADE
VERSUS
THE COMMISSIONER OF STATE TAX AND ANOTHER
...
Advocate for Petitioners : Mr. Patodi And Associates
AGP for Respondents/State: Mr. S. B. Pulkundwar
...

CORAM : NITIN W. SAMBRE &
S. G. CHAPALGAONKAR, JJ.

DATE : 16.03.2023

PER COURT :

1. The learned Additional Government Pleader would invite attention of this Court to the provisions of Section 107 of the Central Goods and Services Tax Act, 2017 [hereinafter referred to as 'the Act' for short] so as to claim that the petitioner has a remedy of an appeal before the Appellate Authority. Sub-Section 1 of Section 107 of the Act, reads thus:

> *"107. **Appeals to Appellate Authority** - (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person."*

2. In view of above, we are of the view that the claim put-forth by the petitioner that the discrepancy in the excess ITC claimed is because of technical/software error can be a ground to be looked into by the Appellate Authority and there is no specific embargo under the powers of the Appellate Authority not to look into such grounds.

3. In view of above, we refrain our-self from causing interference in the writ jurisdiction. The writ petition accordingly disposed of.

4. The disposal of the petition shall not come in the way of the petitioner to prefer an appeal as referred herein above before the Appellate Authority.

(S. G. CHAPALGAONKAR, J.) **(NITIN W. SAMBRE, J.)**

Sameer