IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1411 OF 2022

M/S Arvind Brothers Thr. Partner
Kishore Amrutlal Harsora ..Petitioner
Vs.
The Addl. / Joint Commissioner & Ors. ..Respondents

Ms. Sonali S. Jain, for the Petitioner.
Ms. Shruti D. Vyas 'B' Panle counsel for State/Respondent Nos.1 &2.
Mr. Sandesh Patil a/w Mr. Prithviraj S. Gole, for Respondent No.3.

**CORAM : G. S. KULKARNI &
JITENDRA JAIN, JJ.**

DATE : OCTOBER 03, 2023.

P.C.:

1. We have heard Ms. Jain, learned counsel for the petitioner, Ms. Shruti D. Vyas learned counsel for the respondent Nos. 1 & 2 and Mr. Patil, learned counsel for the respondent No.3.

2. The petitioner has filed this petition under article 226 of the Constitution of India praying for the following reliefs:-

> "a) This Hon'ble Court be pleased to issue a Writ of Mandamus or a writ in the nature of Mandamus or any other appropriate writ, order or direction to the Respondent no.1 & 2 to cancel the GST number of the Respondent no.3 in view of the letter dated 15th November, 2019 issued by the Respondent No.2;
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> b) This Hon'ble Court be pleased to issue a Writ of Mandamus or a writ in the nature of Mandamus or any other appropriate writ, order or direction to the Respondent no.1 & 2 not to take any cohesive steps/action against the said premises and or the Petitioner in light of the fact

that the Respondent no.3 has no right, title and interest in the said premises;

c) Pending the hearing and final disposal of this Petition, this Hon'ble Court be pleased to issue a temporary order and injunction thereby directing the Respondent no.3 not to use the said premises, not to create third party right and interest in the said premises;

d) Pending the hearing and final disposal of this Petition, this Hon'ble Court be pleased to issue a temporary order and injunction thereby directing the Respondent no.1 & 2 to suspend the GST number of the Respondent no.3;

e) ad-interim reliefs in terms of prayer clause (c) & (d) above be granted;

f) Costs of this Petition be provided for; and

g) Such further and other reliefs as the nature and circumstances of the case may require be passed."

3. At the outset, we may observe that the petitioner appears to have a private dispute against respondent No.3 which is in respect of petitioner's premises as let out to respondent No.3. In this regard, the petitioner had filed Special Civil Suit No.351 of 2020 before the Court of Civil Judge Senior Division at Thane. In such suit respondent No.3 filed an application for rejection of plaint by invoking the provisions of Order 7 Rule 11 of the Code of Civil Procedure. It is stated that such application has been allowed in favour of respondent No.3 and the plaint as filed by the petitioner has been rejected. The petitioner has assailed such order passed by the Civil Court by filing an appeal bearing RCA No.141 of 2023 before the Court of learned District Judge at CBD Belapur, which is stated to be pending before the said Court.

4. It is on a contention that respondent No.3 does not have any subsisting legal right to occupy and / or utilize the petitioner's premises and avail the GST registration on the address of the said premises, the petitioner has approached respondent Nos.1 & 2 under the Central Goods and Service Tax Act, for cancellation of the registration of respondent No.3, insofar as it is granted on the address of the petitioner's premises. The prayer in the present proceedings is also similar.

5. In our opinion, certainly these are disputed questions of fact qua the rights inter se between the petitioner and respondent No.3. The same cannot be adjudicated in the proceedings of this writ petition. However, if the grievance as made by the petitioner is correct from the perspective of the CGST / MGST Acts, in that event, in our opinion, it is appropriate that the petitioner makes a detailed representation by making specific prayers, to the appropriate / designated officer i.e. respondent No.1. The learned advocate for the petitioner states that such representation shall be made by the petitioner within a period of two weeks from today.

6. Let a copy of the representation be also served on respondent No.3. On such representation of the petitioner, the designated officer / respondent No.1, shall hear both the parties and pass appropriate orders in accordance with law, on the requests / reliefs as may be prayed by the petitioner in such representation.

7. The Designated officer shall pass appropriate orders within a period of four weeks from the representation being filed. Respondent No.3 is also permitted to place on record its reply within one week of the service of the representation on respondent No.3.

8. All contentions of the parties in that regard are expressly kept open. Needless to observe that the scope of consideration of the representation shall be purely on the issues qua registration of respondent No.3 as arising under CGST / MGST Acts and the factors relevant thereto.

9. Disposed of. No costs.

[JITENDRA JAIN, J.] [G. S. KULKARNI, J.]