

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5000 OF 2022

Prolific Systems and Technologies Pvt.Ltd. & Ors. ... Petitioners

Versus

Union of India & Ors. ... Respondents

MrAbhishek A. Rastogi with Aarti Nishad, for the Petitioners.

Mr.Jitendra B. Mishra with Mr. D. B. Deshmukh, Mr. Ashutosh Mishra, for the Respondents

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

DATED: 31 July, 2023

P.C.

1. We have heard Mr.Rastogi, learned Counsel for the petitioners and Mr. Mishra, learned Counsel for the respondents. Though there are several prayers made in the petition, learned Counsel for the respondents fairly points out that during the pendency of this petition, a show cause cum demand notice dated 16 March 2023 has been issued to the petitioners. He has also drawn our attention to the petitioners' preliminary reply to the show cause notice dated 20 June 2023 as submitted by the petitioners to the office of the Joint / Additional Commissioner, CGST & C.Ex. Mr. Rastogi submits that the petitioners intend to file a detailed reply to the show cause notice which would be filed within two weeks from today.

2. In this view of the matter, in our opinion, further adjudication of the petition is not called for. All contentions of the petitioners in this petition are kept open to be agitated in the adjudication of the show cause notice, as also all issues of law are kept open to be asserted as and when need so arise.

3. Mr.Rastogi has, however, drawn our attention to the fact that as sated in the petition, an amount of Rs.3 crores was deposited by the petitioners with the respondent-revenue, that be taken into consideration in any proceedings and while passing appropriate orders on such proceedings. He submits that such amount was deposited in the year 2020. In such context, he has also drawn our attention to the orders of this Court in “**Vidhata Metal Pvt. Through Ishwar G. Samota & Anr. Vs. Union of India, through its Secretary & Ors.**”¹. He would submit that the petitioner intends to make an application for refund of the said amount.

4. We do not express any opinion on any of the rival contentions as may arise. Suffice it to observe that if the petitioners intend to make such an application, let the same be made within two weeks from today, and on such application being made, the respondents may consider such application and pass appropriate orders on the same.

5. We may also observe that the as the show cause notice is now issued, the same is required to be taken to its logical conclusion. Considering the peculiar facts and circumstances of the case, the show cause notice be adjudicated within six months from the date on which the final reply is filed.

6. Disposed of in the above terms. No costs.

(JITENDRA JAIN, J.)

(G. S. KULKARNI , J.)