IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3966 OF 2022

Mazgaon Dock Nivara Co-operative Housing Society Limited … Petitioner
vs.
The Union of India and ors. … Respondents

WITH

WRIT PETITION NO. 3968 OF 2022

Mazgaon Dock Mandar Co-operative Housing Society Limited … Petitioner
vs.
The Union of India and ors. … Respondents

WITH

WRIT PETITION NO. 2046 OF 2022

Mazgaon Dock Shree Ganesh Co-operative Housing Society Limited … Petitioner
vs.
The Union of India and ors. … Respondents

AND

WRIT PETITION NO. 2048 OF 2022

Mazgaon Dock Vipul Co-operative Housing Society Limited … Petitioner
vs.
The Union of India and ors. … Respondents

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Mr.Bharat Raichandani with Mr.Rishabh Jain i/by M/s UBR Legal Advocates for the Petitioners in all petitions.
Ms.Shruti D. Vyas, "B" Panel Counsel for Respondent No.2 in all petitions.
Mr.B.B.Sharma with Mr.Ram Ochani, Advocates for Respondents No.1 and 4 in WP 2048 of 2022.

Mr.Karan Adik with Mr.Ram Ochani, Advocates for Respondents No.4 and 5 in WP No.3968 of 2022.
Mr.Sham Walve with Ms.Sangeeta Yadav, Advocates for Respondents No.4 and 5 in WP No.3966 of 2022.

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CORAM : NITIN JAMDAR AND ABHAY AHUJA, JJ.
DATE : 14 MARCH 2023.

P.C.:-

1. Heard learned counsel for the parties.

2. The Petitioners are co-operative housing societies. It is the case of the Petitioners that the Petitioners had paid leasehold premium to Respondent No.3-CIDCO Limited on which GST has been charged by the Respondent No.3-CIDCO and the same have been paid by the Petitioners. According to the Petitioners, Petitioners were not liable to pay the GST and have made a request to the Respondent No.3 - CIDCO to apply for refund of the GST paid. Petitioners have relied on communications issued to Respondent No.3-CIDCO as on 18 August 2020 and 16 August 2021 calling upon Respondent No.3-CIDCO to apply for refund. Grievance of the Petitioners is that Respondent No.3-CIDCO has not applied for refund and hence has filed this petition.

3. Learned counsel for the Petitioners submits that apart from Respondent No.3-CIDCO applying for refund, the Petitioners can

also seek refund as per section 54 of the Central Goods and Services Tax Act, 2017 ("the Act" for short), as the said provisions refers to any person claiming refund of any tax. He further relies on the provisions of clause 2(g) to the second Explanation of the said section which while dealing with the aspect of relevant date specifies a particular starting period of limitation for person other than supplier. It is the grievance of the Petitioners that even this request made under the above provisions has not been considered by the Tax Authorities. The communications aforesaid are not addressed to the Respondent-Tax Authorities. Only copy of the request is made to the CIDCO asking for refund is marked to them. Petitioners have not sought for refund invoking section 54.

4. Learned counsel for the Petitioners states that Petitioners would apply to the Respondents-Tax Authorities invoking section 54 of the Act claiming refund. The Respondents-Tax Authorities contend that Petitioners may not be entitled to apply under section 54 of the Act. However, it is for the Petitioners to make this application and it is for the authorities to deal with the same as per law.

5. Therefore, we dispose of the writ petitions since Petitioners intend to apply for refund as per section 54 of the Act to the Respondent-Tax Authorities. We direct that if Petitioners make applications within four weeks from today, the decision be communicated to the Petitioners as per law by the concerned

authorities within a period of six weeks from today subject to early time bound commitments.

6. Writ Petitions are accordingly disposed of.

(ABHAY AHUJA, J.) **(NITIN JAMDAR, J.)**