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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

WRIT PETITION NO. 3283 OF 2021

Hi-Tech Rock Products & Aggregates Limited ... Petitioner

V/s.

The Union of India and Ors. ... Respondents

Mr. Prakash Shah with Mr. Jas Sanghavi i/b. PDS Legal for the
Petitioner

Mr. Karan Adik with Mr. P.S. Patkar for the Respondents

***CORAM : NITIN JAMDAR &
ABHAY AHUJA, JJ.***

DATE : 9 MARCH 2023

P.C. :-

On 19 January 2023, the following order was passed :-

“ The learned Counsel for the Petitioner points out that the challenge to Rule 89(5) of the Central Goods and Services Tax Rules, 2017 (as amended) to the extent that the said provision purports to deny the grant of refund of unutilized tax credit in respect of tax paid on input services now stands concluded in view of the decision of the Hon’ble Supreme Court in the case of Union of India Versus VKC Footsteps India Pvt. Ltd.¹ and will not survive for consideration. As regards

¹ 2021(52) G.S.T.L.513(S.C.)

challenge to the other prayers are concerned, being individual cause it would survive.

2. The learned Counsel for the Respondents seeks time to file a reply. Stand over to 21 February 2023.”

2. Thereafter, the matter was adjourned at the request of the learned Counsel for the Petitioner to take instructions as regards the steps to be taken. The learned Counsel for the Petitioner states that the Petitioner will file an appeal in the light of what is observed in the order dated 19 January 2023 and the delay in filing the appeal be condoned.

3. If the Petitioner files an appeal within a period of two weeks from today, we have no doubt that the concerned Appellate Authority will consider that the Petition was pending in this Court, while considering the prayer for condonation of delay.

4. Writ Petition is accordingly disposed of.

ABHAY AHUJA, J.

NITIN JAMDAR, J.

**JYOTI
PRAKASH
PAWAR**

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by JYOTI
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