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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2724 OF 2019

Kushang Security and Protection Services .. Petitioner
v/s.

The Union of India Through The
Secretary And Anr. .. Respondents

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Mr. Indraprakash Tripathi, a/w. Ms. Bhagyashri Gawas, i/b. C.K. Tripathi, for the Petitioner.

Smt. Jaymala Ostwal, a/w. Smt. Maya Majumdar, for the Respondents.

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

DATE : 16th OCTOBER, 2023

P.C:-

We have heard Mr. Tripathi, learned Counsel for the Petitioner and Smt. Ostwal, learned Counsel for the Respondent Revenue.

2. The prayers in the petition reads thus:

“(a) *this Hon’ble Court be pleased to issue a writ of Certiorari or a writ in the nature of Certiorari under Article 226 of the Constitution of India, calling for the records pertaining to the impugned order No.57 to 63/SKV-38 to*

- 44/MUMECGST/2018-19 bearing F.No.ST II/ Commr /Adj(HQ) KSPS/45/2015 dated 31.01.2019 passed by the Respondent No.2 and after going into the validity and legality thereof to quash and set aside the same;*
- (b) this Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction ordering and directing the Respondent No.2 by himself, his subordinates, servants and agents, pending disposal of the present petition, not to enforce the impugned order No.57 to 63/SKV-38 to 44/MUMECGST/2018-19 bearing F.No.ST II/Commr/Adj (HQ) KSPS/45/2015 dated 31.01.2019 passed by the Respondent No.2 and/or take subsequent steps thereto for implementation thereof and hence, stay recovery thereof;*
 - (c) for interim and ad-interim relief in terms of prayer clause (b);*
 - (d) such other and further order or orders as may be deemed just and proper in the facts and circumstance of the present case."*

3. The only contention as urged on behalf of the Petitioner is that the impugned order dated 31st January 2019 was passed by the Commissioner, CGST Central Excise, Thane, without affording an opportunity to the Petitioner of a personal hearing. It is, thus, contended by Mr. Tripathi, learned Counsel for the Petitioner, that the impugned order deserves to be set aside as the same is in breach of principles of natural justice.

4. We have perused the impugned order. We note that all three replies on behalf of the Petitioner were placed on record in the course of adjudication of the show cause notice in question. We also note that there are detailed findings rendered by the said authority after taking into consideration the case of the Petitioner as set out in its replies. Once this was a position on record and that sufficient

opportunity was available to the Petitioner as also recorded in paragraph 4.1 to 4.11, we are not inclined to accept the Petitioner's contention that the impugned order is in breach of principles of natural justice.

5. We, accordingly, dispose of this petition permitting the Petitioner to assail the impugned orders in an appeal as provided under Section 86 of the Finance Act, 1994. All contentions in that regard are expressly kept open.

6. Needless to observe that the Petitioner was pursuing the present proceedings from 28th June 2019, hence, if an appeal is filed by the Petitioner within period of four weeks from the date of uploading of this order, let the same be adjudicated on merits, without an objection as to limitation.

7. Petition disposed of in the above terms. No costs.

(JITENDRA JAIN, J.)

(G.S. KULKARNI, J.)