

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

WRIT PETITION NO. 1698 OF 2021

Indexone Infracon and Logistics Pvt. Ltd. ... Petitioner

V/s.

State of Maharashtra & Ors. ... Respondents

Ms. Prithwiraj Choudhari with Mr. Aansh Desai for the Petitioner
Ms. Jyoti Chavan, AGP with Milind More, Addl.G.P. for the
Respondent - State
Ms. Sangeeta Yadav for Respondent No.4

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

DATE : 07 FEBRUARY 2023

P.C. :-

On 24 January 2023. following order was passed :-

“ On 5 January 2023 following order was passed:-

“The learned Counsel for the Petitioner states that the issue in this Petition is covered by the decision in the case of Mohit Minerals Pvt. Ltd. vs. Union of India.

2 The learned Counsel for the Respondents seeks time to examine this position and take instructions.

3 *At his request, stand over to 17 January 2023. To be listed under the caption "For Directions."*

Then the matter was adjourned on 17 January 2023 till today for the learned AGP to take instructions. Today also same request is made. Learned counsel for the Petitioner relies on the order passed by the Division Bench of this court in Writ Petition No.2362 of 2017 and other connected matters dated 10 August 2022. A Division Bench in the order dated 10 August 2022 has observed thus:-

"1 Counsel for Petitioners state that the issue raised in these petitions is squarely covered by the recent judgment of the Apex Court in Union of India Vs. Mohit Minerals Private Limited through Director Counsel for Respondents in fairness agree.

2 Therefore we hold and declare that Serial No.10 of the Notification 10/2017-Integrated Tax (Rate) dated 28th June 2017, read with Section 5(3) of the IGST Act, with Notification No.8/2017-Integrated Tax (Rate) dated 28th June 2017, and corrigendum dated 30th June 2017 to Notification No.8-2017-Integrated Tax (Rate) to the extent they seek to impose IGST on the impugned Transaction to be unconstitutional. Petitions disposed.

3 Wherever refund is payable, the same shall be paid within eight weeks of receiving the copy of this order with applicable interest in accordance with law.

4 At the request of Mr. Rishabh Jain Writ Petition No.1138 of 2019 is excluded from this group of matters. It be listed for final hearing on 29th September 2022.

2. Stand over to 31 January 2023 to be listed under the caption "For Directions". If no written instructions are received by the learned AGP or reply affidavit is filed opposing the contention of the Petitioner, it will be presumed that the Respondents-State is accepting the contention of the Petitioner based on the above decisions and an appropriate order will be passed."

2. No reply affidavit is filed no written instructions are kept on record.

3. In the light thereof, we allow the Writ Petition in the same terms as in the order passed by the Division Bench in Writ Petition No. 2362 of 2017 dated 10 August 2022 and the same declaration and directions would follow.

ABHAY AHUJA, J.

NITIN JAMDAR, J.