

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION 13 OF 2023

Pankaja Enterprises, through its
Proprietor Lalit s/o. Namdeorao Shelare,
01, Balapur Patur Road,
Wadegaon, Akola, District Akola

....PETITIONER

...V E R S U S...

Assistant Commissioner of State Tax,
Akola_601, Amravati Division,
GST Bhavan, Neemwadi, Bypass Road,
Akola, District Akola

....RESPONDENT

Mr. N.R. Tekade, counsel for petitioner.
Mr. S.M. Ukey, Addl. GP for respondent/State.

CORAM:- ROHIT B. DEO & Y.G. KHOBRAGADE, JJ.
DATED :- 03.01.2023

ORAL JUDGMENT (Per: Rohit B. Deo, J.)

The petitioner is assailing the order dated 08.04.2022, passed by the Assistant Commissioner, State Tax, (Akola_601), in exercise of power under Section 73 of the Goods and Service Tax Act, 2017 (“GST Act”) and consequential Demand Notice dated 10.04.2022 directing the petitioner to pay Rs. 55,99,189.76/- (Rupees Fifty Five Lakhs Ninety Nine Thousand One Hundred Eighty Nine and Paise

Seventy Six) towards the unpaid tax, the interest and the penalty.

2. We are not inclined to examine the challenge to the order impugned, on merits. Order impugned is appealable under Section 107 of the GST Act. In the petition, there is not even a whisper why the petitioner did not avail the statutory remedy of preferring appeal.

3. We indicated to the learned counsel for the petitioner our disinclination to entertain the petition in view of the existence of statutory remedy under the GST Act, particularly, since there is no jurisdictional issue involved nor is it the case of the petitioner that the order impugned is void. In response, the learned counsel Mr. N.R. Tekade submitted that the remedy of appeal is time barred. We are afraid that it would be inappropriate if not impermissible in law to entertain a petition under Article 226 of the Constitution of India on the ground that the statutory remedy is time barred. This would put a premium on the laxity and

indeed dishonesty since all that would have to be done by litigant intending to bye-pass the statutory remedy, for whatever reason, would be to let the period of limitation expire and then approach the constitutional Court.

4. The petition is dismissed.

(Y.G. KHOBRADE, J.)

(ROHIT B. DEO, J.)

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