2024:BHC-AUG:9007-DB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD

WRIT PETITION NO. 4246 OF 2024

M/S VASUNDHARA CARRIERS PVT LTD., THROUGH ITS DIRECTOR PRAGNESH NATWARLAL SHAH AND ANOTHER
VERSUS
THE UNION OF INDIA THROUGH CENTRAL GOVERNMENT MINISTRY OF FINANCE AND OTHERS

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Mr A. M. Gholap, Advocate for Petitioners;
Mr A. G. Talhar, DSGI for Respondent Nos.1 & 2
Mr R. S. Wani, A.G.P. for Respondent Nos.3 & 4

CORAM : RAVINDRA V. GHUGE
AND
R. M. JOSHI, JJ.

DATE : 24th April, 2024

PER COURT:

1. This matter was heard for some time. Issue is as regards Section 107 of the Central Goods and Services Tax, 2017

2. The learned Advocate for the Petitioners submits that the anxiety of the Petitioners is that, they could not espouse their cause on the basis of the data of February and March, 2019 before the impugned order dated 19/02/2024 was passed. The learned AGP submits that it has become a fashion and a strategy to

approach the High Court, directly, in order to avoid the statutory deposit before filing the statutory appeal.

3. The learned Advocate for the Petitioners submits that, if an opportunity is granted to raise all the grounds, including the grounds with relation to the data of February and March, 2019 in support of their contention that the customers of the Petitioners have already deposited Central as well as the State GST and IGST (Integrated Goods and Services Tax), the Petitioner, who is present in the Court, is willing to deposit 10% of the disputed amount of the assessment made by the impugned order, while preferring an Appeal.

4. The learned D.S.G.I. submits, in the light of Section 107 that, if the Petitioners prefer an Appeal for which the limitation period has still not expired, the law will take it's own course by dealing with the Appeal. We are of the view that since the Petitioners have to deposit the statutory deposit of 10% of the disputed amount assessed, the entire material which the Petitioners would place before the Appellate Authority under

Section 107 of the Central Goods and Services Tax, 2017 and the contentions, shall be considered on their own merits.

5. The learned Advocate for the Petitioners submits that, 10% of the disputed amount assessed under the impugned order, would be deposited.

6. In view of the above, considering that the Statutory remedy under Section 107 is available to the Petitioners, on the condition that the Petitioners shall deposit 10% of the disputed assessed amount within a period of 30 days and prefer an Appeal before 18/05/2024, since that would be the end of the limitation period for the Petitioners, the Statutory Authority would consider the Appeal on it’s own merits and shall consider the entire record produced by the Petitioners, as well as by the Department. Needless to state, the contentions of all the litigating sides are kept open, except any objection as regards the maintainability of the Appeal, in view of the above statements.

(R. M. JOSHI, J.) **(RAVINDRA V. GHUGE, J.)**

sjk