

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7853 OF 2023

M/s. Mantra Gold

...Petitioner

Vs.

The State of Maharashtra & Ors.

...Respondents

Mr. Brijeshh Pathak, for Petitioner.

Mr. Rajan Pawar, AGP for State.

Mrs. Shruti D. Vyas, Addl. G. P. a/w R. S. Pawar, AGP for State.

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.

DATE: 1 APRIL, 2024.

P.C.

1. We have heard Mrs. Bharucha learned counsel for the petitioner as also learned AGP for respondent.
2. This petition under Article 226 of the Constitution of India has been filed praying for the following substantive reliefs (a) and (b):

“(a) Issue appropriate writ or order in the nature of Qua Warranto thereby directing the 2nd Respondent to show cause under what authority could they have recovered an amount of Rs.1,00,00,000/- from the Petitioner without issuance of show cause notice and determination of any liability;

(b) that this Hon’ble Court may be pleased to issue a Writ of Mandamus or a Writ in the nature of Certiorari or any other appropriate writ or order thereby declaring that the action of recovery of Rs.1,00,00,000/- from the Petitioner, as illegal and the Respondents be directed to refund the entire amount to the Petitioner forthwith;”

3. It appears that after the deposit in question was made by the petitioner, during the investigation a show cause notice dated 9 August 2023 was issued by the petitioner on the refund application as filed by the petitioner. The refund application has been rejected by an order passed by the Assistant Commissioner, Division III CGST. The show cause notice itself is stated to be pending.
4. In this view of the matter, in our opinion, it would be in the interest of justice that keeping open all contentions of the parties, the show cause notice dated 13 June 2023 itself be decided as expeditiously as possible.
5. Let, the show cause notice be accordingly adjudicated in accordance with law within a period of six weeks from today.
6. All contentions in that regard are expressly kept open, including the contentions as urged by the petitioner in the present proceedings. Ordered accordingly.
7. Disposed of in the above terms. No costs.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)