



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.18235 OF 2024

PT. OBM Drilchem

...Petitioner

Versus

Union of India & Ors.

...Respondents

Mr. Arun Jain i/b. Mr. Kartik Vig for Petitioner.

Mr. Ram Ochani a/w Ms. Sangeeta Yadav for Respondent Nos.1 to 4 .

Ms. S. D. Vyas, Addl. G. P a/w Ms. V. R. Raje, AGP for Respondent No.5-
State.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.

DATED : 16 December 2024

PC.:-

1. Heard the learned counsel for the parties.
2. The Petitioner challenges the Order-in-Original (O-I-O) dated 26 August 2024 made by Respondent No.5 and the Notification dated 28 December 2023 issued by Respondent No.3 purporting to extend the limitation for passing a final order in respect of the concerned Financial Year, i.e. 2019-2020. The Petitioner has a remedy to appeal the O-I-O, but Mr. Jain submits that no appeal can be filed against the Notification dated 28 December 2023. Besides, he submits that no IGST on imported goods is payable under the Integrated Goods and Services Tax (IGST) Act though it may be payable under the Customs Tariff Act of 1975.
3. Though no appeal may lie against the Notification dated 28 December 2023, all other grounds, including those regarding IGST, can always be raised in an appeal. If, on examining the remaining grounds, the Appellate Authority interferes with the impugned order, then there

may not even be any necessity or occasion to consider the challenge to the impugned Notification dated 28 December 2023. In any case, we can always reserve liberty to the Petitioner to challenge the Notification dated 28 December 2023 should the Petitioner secure no relief under its statutory remedies.

4. In *Oberoï Constructions Limited vs. Union of India and Ors., Writ Petition (L) No.33260 of 2023, decided on 11 November 2024*, we have considered several precedents on the exhaustion of alternate remedies. By adopting the reasoning in the said decision, we propose not to entertain this petition but to relegate the Petitioner to the alternate remedy of appeal.

5. In almost identical circumstances, we declined to entertain petitions, vide our order dated 10 December 2024 in Writ Petition Nos.3225 of 2024 and 3287 of 2024 in the case of *Alkem Laboratories Limited vs. Joint Commissioner of CGST and Central Excise* but granted liberty to the Petitioner therein to institute an appeal and if no relief is obtained under the statutory remedies to challenge the Notification dated 28 December 2023.

6. Therefore, by adopting the reasoning in *Oberoï Constructions Limited (supra)* and our order dated 10 December 2024 in the above two writ petitions, we decline to entertain this petition. However, we grant the Petitioner liberty to institute an appeal against O-I-O and clarify that the Petitioner will also have liberty to challenge the Notification dated 28 December 2024 in the event the Petitioner gets no reliefs under the statutory remedies available to the Petitioner.

7. At this stage, Mr. Jain states that appeal would be instituted within four weeks from today. If such appeal is indeed instituted within four weeks from today after complying with all legal formalities, then,

the Appellate Authority must consider such appeal on merits without advertng to the limitation issue. This is because, this petition was instituted within the limitation period and the Petitioner was bona fide pursuing this petition. All contentions of the parties on merits are left open. This petition is disposed of with liberty in the above terms. No costs.

8. All concerned to act on an authenticated copy of this order.

(Jitendra S. Jain, J.)

(M. S. Sonak, J.)