



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.18776 OF 2024

R. R. Shipping Private Limited

...Petitioner

Versus

Union of India & Ors.

...Respondents

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

Ms. Niyati Mankad (through VC) a/w Mr. Akash Singh for Respondent No.1.

Ms. S. D. Vyas, Addl. G. P. a/w Ms. V. R. Raje, AGP for Respondent-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 29 August 2024 made by Respondent No.5 and the Notifications dated 28 December 2023 and 16 January 2024 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 Notifications dated 28 December 2023 and 16 January 2024. 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 1975.
3. Though no appeal may lie against the Notifications dated 28 December 2023 and 16 January 2024, all other grounds, including grounds now raised regards 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 Notifications dated 28 December 2023 and 16 January 2024. In any case, we can always reserve liberty to the Petitioner to challenge the Notifications dated 28 December 2023 and 16 January 2024 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. By 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*, we declined to entertain Petitions in almost identical circumstances. Still, we granted liberty to the Petitioner to institute an appeal and, if no relief is obtained under the statutory remedies, to challenge the Notifications impugned therein.

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 the liberty to challenge the Notifications dated 28 December 2023 and 16 January 2024 in the event the Petitioner secures no reliefs under the statutory remedies available to the Petitioner.

7. At this stage, Mr. Jain states that an 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 adverting to the limitation issue. This is because this petition was instituted within the limitation period, and the Petitioner was bona fide in 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.)