



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.463 OF 2024
WITH
INTERIM APPLICATION (L) NO.24253 OF 2024
WITH
INTERIM APPLICATION (L) NO.24799 OF 2023
IN
WRIT PETITION NO.463 OF 2024

Raj Petro Specialities Pvt. Ltd. ...Petitioner/Applicant

Versus

The Union of India & Ors. ...Respondents

Mr. Vikram Nankani, Senior Advocate a/w Mr. Udayan Choksi, Mr. Vikram Naik and Mr. Marmik Kamdar for Petitioner/Applicant.

Mr. Jitendra B. Mishra a/w Mr. Ashutosh Mishra, Ms. Sangeeta Yadav and Mr. Rupesh Dubey for Respondent-UI.

CORAM : M. S. SONAK &
JITENDRA JAIN, JJ.

DATED : 14th OCTOBER 2024

P.C.:

- 1.** Heard learned counsel for the parties.
- 2.** The writ petition was filed to challenge the show cause notice (SCN) dated 23 October 2019.
- 3.** Pursuant to the show cause notice, the Adjudicating Authority made an order on 22 May 2024. Therefore, leave is sought by an Interim Application (L) No.24253 of 2023 to challenge the order dated 22 May 2024.

4. The Petitioner has already filed an appeal against the order dated 22 May 2024 insofar as it adjudicates SCN. Mr Nankani, however, states that by the impugned order dated 22 May 2024, the surplus lying with the Adjudicating Authority has not been refunded. Accordingly, he submits that such retention is without the authority of law and in breach of Article 265 of the Constitution of India. He, therefore, submits that leave should be granted to amend the petition to seek the refund of the surplus lying with the Respondents.

5. The main petition, which concerned a challenge to the show cause notice dated 23 October 2019, has now become infructuous. The show cause notice has been adjudicated, and the Adjudicating Authority made the order dated 22 May 2024. The Petitioner has already appealed against the order dated 22 May 2024.

6. If, according to the Petitioner, the Adjudicating Authority should have ordered a refund of the alleged surplus amount while making the order dated 22 May 2024, then it is open to the Petitioner to raise this grievance in the appeal, if necessary, by amending the memo of appeal. In any event, this refund issue affords the Petitioner a fresh cause of action that cannot be mixed up with the issue raised in the main petition, which concerned a challenge to the show cause notice. Such piecemeal adjudication before multiple forum cannot be

encouraged. So also attempts to bypass alternate and efficacious remedies under the statute should also not be encouraged.

7. Accordingly, we decline to grant any leave to amend this petition and dispose of the main petition. However, we clarify that since we have not adjudicated the matter on the merits, all contentions of the Petitioner and Respondents, including the Petitioner's contention about the refund, are expressly kept open.

8. At this stage, Mr Nankani states that leave may be granted to withdraw the Interim Application (L) No.24253 of 2023 with the liberty to take out appropriate proceedings before the proper forum for pursuing the refund issue. Accordingly, leave is granted with liberty as prayed for.

9. The writ petition and the interim applications therein are disposed of with liberty in the above terms.

10. All concerned can act on an authenticated copy of this order.

[JITENDRA JAIN, J.]

[M. S. SONAK, J.]