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

WRIT PETITION NO.1694 OF 2024

Shampoorji Pallonji Energy
Integrated Solutions Pvt. Ltd.

.. Petitioner

Versus

Union of India

.. Respondent

WITH

WRIT PETITION NO.2249 OF 2024

S. P. Armada Oil Exploration Pvt. Ltd.

.. Petitioner

Versus

Union of India

.. Respondent

Mr. Prakash Shah a/w Mr. Jas Sanghavi i/by PDS Legal for the petitioners.

Mr. Subir Kumar a/w Ms. Sangeeta Yadav a/w Mr. Abhinav Palsikar a/w Ms. Ashita Aggarwal for respondent.

CORAM : M. S. Sonak &

Jitendra Jain, JJ.

DATE : 16 December 2024

PC. [Per M.S.Sonak, J.] :-

1. Heard learned counsel for the parties.
2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.
3. The petitioner is challenging the show cause notice dated 27 October 2023 calling upon the petitioner to show cause why short payment of tax amounting to Rs.115,58,67,623/- along with the

appropriate rate of interest shall not be recovered from the petitioner.

4. Typically, since this is a petition challenging a show cause notice, we would have been most reluctant to entertain it. However, the record shows that for the period of August 2017 to May 2018, the Joint Commissioner (Appeals-II), by his Order-in-Appeal, rejected the purported classification of service under hearing '9988' and upheld the petitioner's refund and classification under hearing '9973'. This means the classification made by the petitioner was accepted by the appellate authority for the period from August 2017 to May 2018. The department has not challenged the Joint Commissioner order dated 24 February 2021. Without challenging the Joint Commissioner order, the impugned show cause notice dated 27 October 2023 has been issued, again insisting the petitioner should have classified its service under the heading '9988'.

5. Mr. Subir Kumar, learned counsel for the respondents, states that the respondents are in the process of instituting an appeal, but such an appeal could not be instituted because the GST tribunal is not functional.

6. Though we do not wish to preempt the respondents' remedy of instituting an appeal, it would not be appropriate to prejudice the petitioner by allowing the respondents to dispose of the impugned show cause notice by making a final order.

7. Accordingly, we dispose of these petitions by permitting the respondent to adjudicate upon the impugned show cause notice but not making and communicating a final order of the petitioner till the Joint Commissioner (Appeals) order dated 24 February 2021 is not set aside or stayed.

8. These petitions are disposed of in the above terms without any cost order.

9. The Rule is made absolute in the above terms by clarifying that this order will not come in the way of the respondents challenging the Joint Commissioner Order (Appeals) dated 24 February 2021 in accordance with law.

10. The interim order, if any, stands vacated. The interim application, if any, is disposed of.

(Jitendra Jain, J.)

(M. S. Sonak, J.)

This order is corrected as per speaking to minutes of the order dated 18 December 2024.