



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5207 OF 2024

Dayaram Agro Industries, Through its Proprietor Vs. Union of India,
Through its Secretary, Department of Finance and others

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Anand Parchure & Mr. Ram Heda, Advocates for Petitioner
Ms. Sangita Mishra, Advocate for Respondent No.1
Mr. V.A. Thakare, AGP for Respondent Nos.2 to 5

**CORAM: AVINASH G. GHAROTE AND
SMT. M.S. JAWALKAR, JJ.**

DATED : 12th SEPTEMBER, 2024

1. Ms. Sangita Mishra, learned counsel appears for respondent No.1.

2. The learned Assistant Government Pleader appears for respondent Nos.2 to 5.

3. The petitioner has been issued a show cause notice dated 24.07.2024, claiming contravention of the Central Goods and Services Tax Act, 2017 and Rules framed thereunder on the ground, that in terms of the Notification dated 28.06.2017, the petitioner has not filed an affidavit for availing exemption before the jurisdictional tax authorities stating, it is foregoing any actionable claim on account of the brand of the petitioner not being registered under the Trade Marks Act. It is the

contention, that such affidavit has been filed for which our attention is invited to the affidavit dated 27.09.2017 (page No.69). Our attention is also invited to the show cause notice para 7.2 (page No. 113), which admits the submission of the affidavit and documents regarding the foregoing of the actionable claim and so also para 7.5 (page No. 117), which *prima facie* show that an affidavit foregoing their actionable claims on account of the brand name of the petitioner being unregistered has been received by the authorities. It is contended, that since that is the only reason why the show cause notice has been issued and since show cause notice itself indicates receipt of the affidavit, its issuance it itself is infirm.

2. Issue notice for final disposal, returnable on 19.09.2024.

3. Ms. Sangita Mishra, learned counsel waives notice for the respondent No.1 1.

4. Mr. V.A. Thakare, learned Assistant Government Pleader waives notice for the respondent Nos. 2 to 5.

(SMT. M.S.JAWALKAR J.)

(AVINASH G. GHAROTE, J.)