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

WRIT PETITION No.7135 OF 2024

(M/s. Shrinivasa Realcon Pvt. Ltd., through its Director Vs. Deputy Commissioner, Anti-Evasion Branch, CGST & Central Excise, Nagpur and others)

Office Notes, Office Memorandum of Coram, appearances, Court's orders of direction, And Registrar's Orders.	Court's or Judge's orders.

Mr. A.A. Naik, Senior Advocate along with Mr. A.J. Bhoot, Advocate for petitioner.

Coram : Avinash G. Gharote and Abhay J. Mantri, JJ.
Date : 11th December, 2024.

1. Heard Mr. A.A. Naik, Senior Advocate advocate for the petitioner.

2. The petition questions the notice dated 24.7.2024 (Page 120), by which the petitioner has been asked to pay the amount of tax as ascertained upon the transaction as contemplated by the agreement of sale dated 7.1.2022 under the terms of which the petitioner has been appointed as a developer by the owner, to develope the land of Plot No.2 admeasuring 8000 sq. ft., Mouza Lendra, into a multi-storied complex for the monetary consideration of Rs.7/- crores and two apartments as indicated in clause (2) (Page 31). It also challenges the second show cause notice dated 14.8.2024 (Page 123) by which GST has been claimed upon the aforesaid transaction in terms of clause (5-B) of the Notification dated 28th June, 2017 (Page 131) as it stands amended by the subsequent Notification dated 29th March, 2019 (Page 135).

3. It is contended, that the transaction as is witnessed by the Agreement of Development dated 7.1.2022 does not fall within the scope and ambit of clause (5-B) so as to attract G.S.T. as all that the clause indicates is a service supplied by any person by way of transfer of development rights or FSI for construction of a project by a Promoter. Prima face, on perusal of the agreement dated 7.1.2022 would indicate that it has nothing to do with supply of any TDR, which is defined under Regulation 11.2 of the Unified Development Control and Promotion Regulations for the State. It is material to note that the GST Act does not define what is meant by Transfer of Development Right (TDR).

4. Issue notice for final disposal to the respondents, returnable on 7.1.2025.

5. No coercive action shall be taken against the petitioner till the returnable date.

(Abhay J. Mantri, J.) **(Avinash G. Gharote, J.)**

Wadode