Form No. J.(2)
Item No.2

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

HEARD ON: 04.03.2025

DELIVERED ON: 04.03.2025

CORAM:
THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)

M.A.T. 163 of 2015
With
I.A. No. CAN 1 of 2025

Halaplay Technologies Private Limited & Anr.
Versus
Union of India & Ors.

Appearance:-
Mr. Rishi Raju
Mr. Suvranil Saha
.... For the Appellants/Petitioners
Mr. A. Ray, Ld. G.P.
Md. T. M. Siddiqui, Ld. A.G.P.
Mr. T. Chakraborty
Mr. S. Sanyal
..............For the State
Mr. Uday Shankar Bhattacharya
Mr. Tapan Bhanja
.....For the Respondent No.5
Mr. Vipul Kundalia
Mr. Abhradip Maity
.....For the CGST & CX Authority

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. This intra-Court appeal by the appellants/writ petitioners is directed against the interim order dated 8th January, 2025. The said writ petition was filed by the appellants for varied prayers. The first of such prayer was to declare Rule 31A(3) of the Central Goods and Services Tax Rules, 2017 and West Bengal Goods and Services Tax Rules, 2017 along with Circular

No.27/01/2018-GST dated January 4, 2018 to be *ultra vires* Article 14 of the Constitution of India and Section 2 (52), Section 7 and Section 15 of the C.G.S.T. Act, 2017 and W.B.G.S.T. Act, 2017 (for brevity, "the act").

2. Apart from the said prayer for issuance of a writ of declaration, the appellants have also challenged the show-cause notice dated July 24, 2024 issued under Section 74 of the C.G.S.T. Act to be illegal and bad in law, without jurisdiction, arbitrary and unreasonable.

3. The learned Single Bench while admitting the writ petition took note of the order passed by a Co-ordinate Single Bench dated 30th November, 2023 in the case of ***Deltatech Gaming Ltd. Vs. Union of India*** reported in ***(2024) 17 Centax 191 (Cal)***, wherein the writ petition with identical set of facts was entertained and a limited interim order was passed. Accordingly, the learned Single Bench passed the limited interim order taking note of the fact that the show-cause notice has already been issued, the proceedings were permitted to go on and the appellants/writ petitioners were directed to file their response to the show-cause notice within a time period and the adjudicating authority was directed to give an opportunity of hearing to the appellants/writ petitioners and however, final order shall not be uploaded and communicated to the appellants/writ petitioners without the leave of the Court and the respondents were also restrained from enforcing such order without the leave of the Court.

4. The appellants before us challenging the said limited interim order by relying upon an order passed by the Hon'ble Supreme Court in the case of ***Golden Peace Infrastructure Private Limited and Anr. Vs. The Assistant State Tax Officer, Office of the State Tax Office Mapusa***

Ward, Goa & Anr. in Writ Petition (s) (Civil) No (s).50/2025 dated 22nd January, 2025. We find in the said order that the Hon'ble Supreme Court has taken note of an order dated 10th January, 2025 passed in Special Leave to Appeal (C) Nos.19366-19369/2023 and other connected matters and granted stay of the impugned show-cause notices before it.

5. Thus, the attempt of the appellants before us is to challenge the impugned interim order based on an order passed by the Hon'ble Supreme Court, which was admittedly much after the impugned interim order was passed by the learned Single Bench.

6. Therefore, we will not be justified in entertaining this appeal to test the correctness of the impugned order based upon an order passed by the Hon'ble Supreme Court, which is admittedly much after the interim order dated 8th January, 2025. However, since the Hon'ble Supreme Court has entertained the writ petition and granted an order of stay of the show-cause notices till the final disposal of the matter, we grant liberty to the appellants/writ petitioners to file a fresh application in the writ petition and seek for appropriate modification of the interim order dated 8th January, 2025 to be in tune with the order passed by the Hon'ble Supreme Court.

7. The learned advocate appearing for the appellants/writ petitioners submitted that the show-cause notice, which was issued was made answerable to the Additional/Joint Commissioner of CGST & CX, Chennai (South), Tamil Nadu and the said authority will not have jurisdiction to adjudicate the show-cause notice since, the registered place of business of the appellants/writ petitioners is not within the jurisdiction of the said authority in the State of Tamil Nadu as the appellants/writ petitioners are

initially carrying on business in the State of Karnataka from 2017 onwards till November 20, 2022 after which the appellants are stated to have shifted their place of business to the State of West Bengal.

8. The learned Senior Standing Counsel appearing for the respondents submitted that after the show-cause notice was issued, a Corrigendum dated 10th December, 2024 was issued whereby the appropriate portions of the show-cause notice dated 24th July, 2024 was amended and the show-cause notice was made answerable to the Additional/Joint Commissioner of CGST & CX, Bengaluru East Central Tax Commissionerate, Bengaluru and the appellants/writ petitioners had also participated in the adjudication process and the adjudicating authority has passed orders. This issue need not be adjudicated at this juncture and the same is kept open and left to be decided when the writ petition is taken up for hearing.

9. Accordingly, we dispose of the appeal along with the connected application (I.A. No. CAN 1 of 2025) giving liberty to the appellants/writ petitioners to file a separate application before the learned Single Bench and seek for appropriate orders in the light of the order passed by the Hon'ble Supreme Court dated 22nd January, 2025 and if such application is filed, the Hon'ble Single Bench is at liberty to decide the matter on merits and in accordance with law.

10. We make it clear that we have not adjudicated the merits of the matter nor the correctness of the legal submissions made by the learned advocate for the appellants/writ petitioners based upon the order passed by the Hon'ble Supreme Court and it will be well-open to the Hon'ble Single Bench to take a decision on merits and in accordance with law.

11. No costs.

12. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(CHAITALI CHATTERJEE (DAS) J.)

Pallab/KS AR(Ct.)