**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**BENCH AT AURANGABAD.**

**WRIT PETITION NO.7609 OF 2025**

Shivam Construction
Through Its Prop. Shriram Prabhakar Mundhe .. Petitioner

Versus

The Union of India
Through the Secretary and Others .. Respondents

.....

Shri. Alok Sharma and Shri. R. S. Indani, Advocate for the Petitioner
Shri. Pratik P. Kothari, Advocate for Respondent Nos.2 and 3
Shri. D. S. Ladda, Advocate for Respondent Nos.1 to 3

.....

**CORAM : R. G. AVACHAT AND**
**NEERAJ P. DHOTE, JJ.**

**Dated : AUGUST 19, 2025**

**PER COURT :-**

. This Writ Petition under Article 226 of the Constitution of India is filed with the following prayers:

> *"A) This writ petition may kindly be allowed.*
>
> *B) That the show cause notice no.227/ST/TPI /JC/JLN/BEED/20-21 dated 31.12.2020 and 291/ST/TPI/JC/2021-22 dated 18.04.2021 may kindly be dropped.*
>
> *C) That the order bearing no. V(ST)15-114/Adj/JC/2020-21 dtd. 12.12.2024 passed by the respondent no. 3 may kindly be quashed and set aside.*
>
> *D) That, in the alternate the Hon'ble Court may remand the matter back to the respondent no. 3 to decide the show cause notice /application for rectification of mistake afresh by following the due process of law.*
>
> *E) Any other suitable and equitable relief may kindly be granted in favour of the petitioner."*

2. It is submitted by learned Advocate for the Petitioner that the Show Cause Notice is not served on the Petitioner as mandated under the Service Tax (Chapter V of Finance Act, 1994) and Central Excise Act, 1944. He adverts our attention to the ground III in the Writ Petition, which reads as under:

> *"III) The respondent has not produced any evidence which proves that the respondent has sent the intimation of personal hearing to petitioner through registered post with due acknowledge or petitioners mail ID. Sending intimation of personal hearing on CA's mail ID is not proper mode of services as per section 37C of the Central Excise Act, 1944 which is made applicable to service tax vide section 83 of the Finance Act, 1994.*
>
> *In fact, in show cause notice no.227/ST/PTI/JC/JLN/BEED/20-21 dated 31.12.2020 intimation of personal hearing was sent on income tax consultant email ID indamuncapr@gmail.com who have no relation with the service tax matter. The CA replied through mail that the intimation may please be sent on petitioner mail ID and provided the mail ID of petitioner."*

3. Learned Advocate for the Petitioner submits that the Petition can be disposed off by relegating the Petitioner before the competent concerned Authority by keeping all the grounds open.

4. Learned Advocate appearing for all the Respondents Authority submits that the matter can be remanded to Respondent No.3 for appropriate adjudication instead of entertaining the Petition on merits.

5. Since learned Advocate for the Petitioner and learned Advocate for the Respondents are on one page and they adverted our attention to Section 83 of the Service Tax (Chapter V of Finance Act, 1994) which

provides that, the provisions of Section 37C of the Central Excise Act, 1944, shall apply so far as may be, in relation to service tax as they apply in relation to the duty of excise, we find the said prayer of remand to be reasonable. We quote the above referred Sections :

Section 83 of Service Tax (Chapter V of Finance Act, 1994) :-

> ***"83. Application of Certain Provisions of Act 1 of 1944***
>
> *The provisions of the following sections of the Central Excises Act, 1944, as in force from time to time, shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise."*

Section 37-C of the Central Excise Act, 1944 :-

> ***"37-C. Service of decisions, orders, summons, etc.*** *-*
>
> *(1) Any decision or order passed or any summons or notice issued under this Act or the rules made thereunder, shall be served, -*
>
> *(a) by tendering the decision, order, summons or notice, or sending it by registered post with acknowledgment due [or by speed post with proof of delivery or by courier approved by the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963)] to the person for whom it is intended or his authorised agent, if any;*
>
> *(b) if the decision, order, summons or notice cannot be served in the manner provided in clause (a), by affixing a copy thereof to some conspicuous part of the factory or warehouse or other place of business or usual place of residence of the person for whom such decision, order, summons or notice, as the case maybe, is intended;*
>
> *(c) if the decision, order, summons or notice cannot be served in the manner provided in clauses (a) and (b), by affixing a copy thereof on the notice board of the officer or authority who or which passed such decision or order or issued such summons or notice.*
>
> *(2) Every decision or order passed or any summons or notice*

*issued under this Act or the rules made thereunder, shall be deemed to have been served on the date on which the decision, order, summons or notice is tendered or delivered by post [or courier referred to in sub-section (1)] or a copy thereof is affixed in the manner provided in sub-section (1).]*

6. In view of the above, without going into the merits of the matter, we dispose off the Writ Petition by relegating the parties before Respondent No.3 for appropriate adjudication in respect of the impugned notice. We make it clear that all the grounds raised in the Petition would be available to the Petitioner before the concerned Authority.

**( NEERAJ P. DHOTE, J. )** **( R. G. AVACHAT, J. )**

GGP