IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 925 OF 2025

Leadership Boulevard Pvt. Ltd., .. Petitioner.

Versus

Union of India & Others .. Respondents.

Adv. ***Sriram Sridharan with Adv. Vidhi Jain, Adv. Shanmuga Dev & Aditi Jain****, for the Petitioner.*

Adv. Jitendra B. Mishra with Ms. Sangeeta Yadav and Mr. Rupesh Dubey, *for the Respondents.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: FEBRUARY 03, 2025

P. C.

1. Mentioned out of turn.

2. The above Writ Petition is filed (i) seeking to quash and set aside the letter dated 2nd September, 2024 issued by Respondent No.2; and (ii) to restrain the Respondents from proceeding with the Show Cause Notice dated 11th July, 2024 to the extent of Input Tax Credit voluntarily forgone by the Petitioner.

3. The Show Cause Notice issued to the Petitioner is based on the allegation that the Petitioner ought to have paid GST on the supply of text books which are otherwise exempt from tax because it was an ancillary supply to the supply of platform solution services.

4. In short, it is the case of the department that this is a composite supply [i.e. supply of text books and supply of platform solution services] and, therefore, though the supply of text books may be exempted, GST would have to be paid because the supply of platform solution services is the principal supply, and the supply of text books is only ancillary.

5. The case of the Petitioner [in their letter dated 29th July, 2024 addressed to Respondent No.2] was that since the Petitioner had considered the sale of books as an exempt supply as per the provisions of the GST Law, it reversed/ did not avail ITC qua the sale of books in terms of the GST law. It was also pointed out that the factual position in relation to reversal/ non-availment of ITC by the Petitioner pertaining to exempted supply of books sold was not considered nor noted in the Show Cause Notice. Accordingly, it was requested that the Show Cause Notice be amended to capture the factual position including the ITC reversed/ not availed qua sale of books in terms of the GST law for an exempted supply.

6. This letter was replied to by Respondent No.2 by its letter dated 2nd September, 2024 (page 214 of the paper book), in which it is stated that since the office of Respondent No.2 had already concluded the proceedings with the issuance of the Show Cause Notice, any submissions or replies to the Show Cause Notice should be communicated directly to the common adjudicating authority who is Respondent No.3.

7. Since the only short point in the present Writ Petition is what is set out above, we dispose of this Writ Petition by directing that when Respondent No.3 adjudicates the Show Cause Notice, he shall also take into account the contentions of the Petitioner regarding the non-availment of the ITC and what would be the effect thereto. In other words, the adjudicating authority shall also, at the time of adjudicating the Show Cause Notice, also decide whether the Petitioner is entitled to ITC, if they are held liable to pay tax as alleged in the Show Cause Notice.

8. Since the time period to pass an Order on the Show Cause Notice expires on 5th February, 2025, we hereby extend the time to pass the Order by a further period of eight weeks from today. Before passing the Order, Respondent No.3, on the limited aspect of Input Tax Credit, shall also give a hearing to the Petitioner and allow them to file the necessary documents.

9. It is needless to state that all the contentions of the parties on merits are expressly kept open to be agitated before Respondent No.3.

10. The Writ Petition is disposed of in the aforesaid terms. However, there shall be no order as to costs.

11. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**