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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10284 OF 2025

M/s.Globe Mobility Private Limited ... Petitioner

Versus

Union of India and Others Respondents

...

**Mr. Bharat Raichandani with Dhanistha Kawale i/b UBR Legal ,
for Petitioner.**

**Ms. S. D. Vyas, Additional G.P with M.M. Pabale, AGP for the
State.**

**CORAM : M.S. Sonak &
Advait M. Sethna, JJ.**

DATED : 16 September 2025

P.C.:-

1. Heard learned Counsel for the parties.
2. The Petitioner challenges the order dated 24 February 2025, passed by the First Appellate Authority. As against this order, the Petitioner has a remedy before the GST Tribunal, which is presently not constituted.
3. Mr. Raichandani submits that since there is no Tribunal constituted, the Petitioner has no other alternate or efficacious

remedy. Besides, he submits that the Petitioner has challenged the constitutional validity of Section 16(2)(c) of the CGST Act/MGST Act as violative of Articles 14, 19(1)(g), and 21 of the Constitution of India. He points out that, according to him, the order in the original or even the impugned order contains no findings on the several contentions raised by the Petitioner. He submits that these are good enough reasons for this Court to entertain this Petition.

4. Ms Vyas refers to a Trade Circular dated 13 August 2024, which outlines the guidelines for recovering outstanding dues in cases where the First Appeal has been disposed of until the Appellate Tribunal is constituted and begins functioning. She submits that the Petitioner can simply complete a form in Annexure I, and once this form is submitted, no recoveries will be effected. Additionally, the limitation period for filing an Appeal before the Tribunal will start from the date of its constitution and commencement of operations, which will be communicated to the party/assesee.

5. Ms. Vyas submitted that the constitutional validity of Section 16(2)(c) of the CGST Act/MGST Act has already been upheld by the Gujarat, Kerala, and Patna High Courts and, to the best of her knowledge, there are no decisions of any other High Court striking down this provision. She submitted that the validity is now challenged only as a ploy to defeat the objection about exhaustion of the alternate remedy.

6. Mr Raichandani has submitted that the Petitioner is entitled to succeed in this matter even without going into the issue of the constitutional validity of Section 16(2)(c) of the CGST/MGST Act. The argument about there being no findings, *prima facie*, does not appeal to us. Therefore, this is not a case where we must deviate from the practice of exhaustion of alternate remedies. Suppose the Petitioner fails in the Appeal, in that case, it will always be open to the Petitioner to challenge the constitutional validity of Section 16(2)(c) of the CGST/MGST Act together with a challenge to the Tribunal's order. As it is, where a case can be disposed of on a ground not involving a challenge to the constitutional validity of a statutory provision, such a course must be preferred. Therefore, it is not necessary to entertain this Petition at this stage on such a ground.

7. The Trade Circular dated 13 August 2024 substantially protects the Petitioner. The Petitioner had instituted this Petition on 17 April 2025, i.e., within the timeline prescribed for filing the necessary form in terms of the Trade Circular dated 13 August 2024. Therefore, if the Petitioner now files the necessary form prescribed in Annexure-1 to this Trade Circular, we are sure that the Petitioner will secure all the benefits granted by this Circular. This position is also not disputed by Ms. Vyas, the learned Counsel for the Respondents.

8. The required form in Annexure-1 to the Trade Circular must now be submitted within four weeks of uploading this order if the Petitioner wishes to claim the benefits under the said Trade Circular. Once the Tribunal is constituted and begins functioning, the Petitioner will be entitled to appeal the impugned order dated 24 February 2025. If the petitioner's appeal fails, they retain the liberty to challenge the Constitutional validity.

9. All contentions of all parties on merits are left open to be decided by the Tribunal in accordance with law and on their own merits.

10. With the above liberties, we dispose of this Petition.
No costs.

Sd/-xxxx

(Advait M. Sethna, J)

Sd/-xxxx

(M.S. Sonak, J.)