IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.205 OF 2025

Motilal Oswal Financial Services Ltd., .. Petitioner.

Versus

Union of India & Others .. Respondents

Adv. ***Jas Sanghavi*** *with Adv. Mihir Deshmukh and Adv. Shamik Gupte i/b. PDS Legal, for the Petitioner.*

Ms. ***Jyoti Chavan****, AGP, for Respondent Nos. 2 & 3.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: JANUARY 30, 2025

P. C.

1. The above Writ Petition has been filed, *inter alia*, seeking to quash and set aside the ex-parte Order bearing reference No. ZD2708240638620 dated 22nd August, 2024 passed by Respondent No.3 in Form DRC/07 (Exh.A to the Petition). In the alternative, it is prayed that Respondent No.3 be directed to decide the Rectification Application bearing No. ARN AD270924011050K dated 16th September, 2024 filed by the Petitioner (Exh. J to the Petition).

2. The short point on which the ex-parte Order dated 22nd August, 2024 is challenged, is that no hearing at all was given to the Petitioner before adjudication of the Show Cause Notice and passing of the impugned Order. This apart, it is the case of the Petitioner that though the Show Cause Notice dated 30th September, 2023 demanded an amount of Rs.4,33,46,253/-, the impugned Order directs the Petitioner to pay an amount of Rs.20,84,54,770/-. According to the Petitioner, Section 75(5) of the CGST Act, 2017/ MGST Act, 2017 stipulates that the amount of tax, interest and penalty demanded in the Order, cannot exceed the amounts specified in the notice and no demand can be confirmed on a ground other than the grounds specified in the notice. It is on these two short points, that the impugned Order dated 22nd August, 2024 is challenged in the above Writ Petition.

3. Ms. Chavan, the learned AGP appearing on behalf of Respondent Nos. 2 & 3, after taking instructions, fairly submitted that the impugned order can be set aside and the matter can be remanded back to the Deputy Commissioner of State Tax, Bandra West, 501 GST, for a fresh adjudication on the Show Cause Notice dated 30th September, 2023.

4. Considering the fair stand taken by the State, we hereby quashed and set aside the impugned Order dated 22nd August, 2024 (Exh.A to the

Petition). We now direct that the Show Cause Notice dated 30th September, 2023 shall be adjudicated afresh after giving a hearing to the Petitioner.

5. We are informed that a Reply to the Show Cause Notice has already been filed by the Petitioner and which is dated 27th October, 2023. If Petitioner wants to file any Additional Reply, they are free to do so within a period of two weeks from today, failing which no further reply shall be filed by the Petitioner. The Deputy Commissioner of State Tax, Bandra West, 501 GST, shall thereafter fixed a date for hearing and only thereafter shall pass any order on the Show Cause Notice.

6. In light of the fact that the impugned Order itself is now quashed and set aside, nothing would survive in the Rectification Application ARN AD270924011050K dated 16th September, 2024 filed by the Petitioner and the same shall be treated as disposed of.

7. The Writ Petition is disposed of in the aforesaid terms. However, there shall be order as to costs.

8. It is needless to clarify that we have not gone in to the merits of the matter and all contentions of all the parties are expressly kept open, to be agitated before the Deputy Commissioner of State Tax, Bandra West, 501 GST.

9. 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.]**

S.R.JOSHI