

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

WRIT PETITION NO. 4609 OF 2024

Safset Agencies Pvt. Ltd.,

.. Petitioner.

Versus

Union of India & Others

.. Respondents

Adv. Mr. Vikram Nankani, Sr. Advocate with Mr. Prithwiraj Choudhari i/b. Bachubhai Munim & Co., for the Petitioner.
Adv. Jitendra B. Mishra with Mr. Abhishek Mishra, for Respondent Nos. 1 to 3 - UOI.

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.

DATE: JANUARY 9, 2025

P. C.

1. The above Writ Petition is filed seeking the appropriate writ or order or direction to quash and set aside the impugned show cause notice dated 6th August, 2024.

2. The case of the Petitioner is that by the impugned show cause notice, the authorities are seeking to go beyond the Advance Ruling already given in favour of the Petitioner by the Appellate Authority vide its Order dated 7th October, 2019.

3. Per contra, it is the case of the Respondents that the show cause notice issued to the Petitioner has got nothing to do with the Advance Ruling. It is their case that the 5% so called discount being given by the Petitioner to the owner, is nothing but a supply of service and is to be taxed accordingly.

4. It is also the case of the authorities that there is an admission on the part of the Petitioner (during course of investigation) that the 5% margin recovered by the Petitioner from the owner of the goods is a service provided to the owner.

5. After hearing Mr. Nankani, the learned Senior Advocate appearing on behalf of the Petitioner as well as Mr. Mishra, the learned Counsel appearing on behalf of the Respondent, we are of the view that this is certainly not a fit case where we should interfere at the show cause notice stage. Whether the show cause notice, in fact, seeks to do something which is also ruled upon in the Advance Ruling order, or otherwise, is something that the authorities will have to decide whilst adjudicating the show cause notice. Further, what tax has to be paid by the Petitioner and at what rate, will also have to be decided whilst adjudicating the show cause notice. At this stage, we are not inclined to interfere with the issuance of show cause notice and the Petitioner will have to face the same.

6. Keeping all contentions of the parties open, to be agitated before the authority, we dispose of the above Writ Petition. No order as to costs.

7. At this stage, Mr. Nankani, the learned Senior Advocate states that the hearing before the authorities has been kept tomorrow i.e. 10th January, 2025. Hence, the hearing be deferred and liberty be granted to the Petitioner to file a Reply/ Representation to the show cause notice.

8. Considering the aforesaid request, we direct that the Petitioner shall file its Reply/ Representation to the show cause notice within a period of four weeks from today and the show cause notice shall be adjudicated within a period of twelve weeks from today.

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.]