2026:BHC-AUG:10695-DB

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

941 WRIT PETITION NO. 1506 OF 2024

GULAB DATTU NAGE
VERSUS
THE CITY AND INDUSTRIAL DEVELOPMENT CORPORATION LTD CIDCO THROUGH ITS ADMINISTRATOR AND OTHERS
...
Advocate for the Petitioner : Mr. Kalyan Patil h/f Mr. Abhay Kolte
AGP for Respondent/State : Mr. N.D. Batule
Advocate for Respondent no.1 : Adv. Snehal P. Kulkarni h/f Mr.
Advocate for Respondent nos.2 and 4 : Mr. D.S. Ladda
...

WITH
CIVIL APPLICATION NO. 10683 OF 2024
IN WP/1506/2024
...

CORAM : NITIN B. SURYAWANSHI AND
VAISHALI PATIL-JADHAV, JJ.

DATED : 7th MARCH, 2026.

ORDER :

. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks following reliefs :-

> "B. Rule may be made absolute and by issue of writ of mandamus or any other writ or order in the like nature, the respondent No.1 may be directed to deposit the amount of tax (GST) of Rs.9,56,448/- to the credit of government out of the total amount of Rs.55,13,600/- collected from the petitioner towards Central Goods and Services Tax and Maharashtra Goods and Services Tax.

> C. Rule may be made absolute and by issue of writ of certiorari or any other order in the like nature, the impugned

letter dated 30.12.2021 issued by the respondent No.1, may be quashed and set aside."

2. The issue involved in the present Writ Petition is squarely covered by the decision of this Court at Nagpur Bench in the case of ***Aerocom Cushions Private Limited Vs. Assistant Commissioner (Anti-Evasion), CGST & CX, Nagpur-1, Superintendent, CGST & Central Excise, Anti - Evasion, Nagpur, (2026) Tax Corp(GST) 67069 (HC-BOMBAY)***, wherein by relying on judgment of Gujarat High Court in the case of ***Gujarat Chamber of Commerce and Industry Vs. Union of India,*** it is held that :-

> *"14. Further, the law laid down by Gujarat High Court is binding on the authorities i.e. the respondents in terms of the judgment of this Court in the case of **Commercial of Income-Tax, Vidarbha v. Smt. Godavari Devi Saraf, (1978) 113 ITR 589,** wherein the Court held that until a contrary decision is given by any other competent High Court, it is binding on a Tribunal in the State of Bombay, it has to proceed on the footing that the law declared by the High Court, though of another State, is the final law of land. In that sense, the decision of Gujarat High Court is binding on the authorities below. Further we subscribe to the finding of Gujarat High Court that the assignment by sale and a transfer of leasehold rights of the plot of land allotted by the Corporation like GIDC or MIDC to the lessee in favour of third party-assignee for a consideration shall be assignment/sale/transfer of benefits arising out of immovable property by the lessee-assignor in favour of third party and in such circumstances, the transaction would not be subject to levy of GST in terms of the GST Act."*

3. Prayers made in the present petition are squarely covered

by the aforesaid ratio.

4. In the result, Writ Petition is allowed. The impugned communication dated 30.12.2021 thereby demanding an amount of Rs.9,56,448/- from the petitioner is hereby quashed and set aside.

5. In view of the order allowing Writ Petition, Civil Application No.10683/2024 is allowed in terms of prayer clauses "B" and "C".

(VAISHALI PATIL-JADHAV,J.) **(NITIN B. SURYAWANSHI,J.)**

sga