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

WRIT PETITION NO. 5414 OF 2024

Maharashtra Tourism Development Corporation Ltd. .....Petitioner

Versus

The Union of India & Ors. .....Respondents

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Mr. Shanmuga Dev a/w Mr. Parv Baxi i/b Mr. Sriram Sridharan, for the Petitioner.

Mr. Ram Ochani a/w Mr. Abhishek R. Mishra, for the Respondent Nos.1 to 4.

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CORAM : M. S. KARNIK &
SANDESH D. PATIL, JJ.

DATE : 6th OCTOBER, 2026

P.C.:-

1. Heard learned Counsel for the petitioner. We have also heard Mr. Ochani for the respondents.

2. The challenge in this petition is to the order passed by the Additional Commissioner (Appeals-I), CGST & CX, Mumbai dated 26th April, 2024, thereby upholding the order passed by the Adjudicating Authority and consequently rejecting the appeal. The petitioner is the Maharashtra Tourism Development Corporation Ltd.

RUPALI RAJESH WAKODIKAR
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Date: 2026.10.13 10:43:11 +0530

The petitioner is a 100% undertaking of the Government of Maharashtra, having a GSTIN 27AAACM0712G1ZZ and is engaged in the business of promoting and expanding tourism in India. The facts are that the petitioner had an accumulated and unutilized CENVAT credit amounting to Rs.5,33,78,896/- pertaining to various units / branches situated in the State of Maharashtra. These unutilized CENVAT credits were reflected in the ST-3 return filed by the various units in their returns pertaining to June, 2017. The petitioner has given the breakup of unutilized and accumulated CENVAT credits pertaining to the June, 2017 of its various units / branches in the petition. Suffice to be observed that the Show-cause notice was issued to the petitioner by the Adjudicating Authority on 27th December, 2021 for Rs.5,18,26,352/- for having wrongly transited by them under the provision of Section 140(1) of the CGST Act, 2017, should not be demanded and recovered in terms of the provision of Section 73(1) of the CGST Act, 2017 r/w Rule 121 of the CGST Rules alongwith demand for appropriate interest under Section 50 of the CGST Act, 2017 r/w Rule 121 of the CGST Rules alongwith penalty to be imposed under Section 122(2)(a) of the CGST Act, 2017 r/w Rule 121 of CGST Rules, 2017.

3. The petitioner attended the proceedings before the Adjudicating Authority. The petitioner was given a personal hearing on various dates. The petitioner was called upon by the said authority by a letter dated 6th October, 2023 to submit the documentary evidences pertaining to the justification for availment of Trans-1 credit of Rs.5,18,26,352/-.

4. The personal hearing was thereafter, granted to the petitioner on 26th October, 2023 and 22nd November, 2023.

5. The order of the Adjudicating Authority records that the petitioner failed to respond to the notice despite ample opportunities given in the matter, the petitioner had failed to file their reply, the matter was decided without the reply as the same could not be kept pending indefinitely. The order was passed by the Adjudicating Authority on 12th December, 2023.

6. Learned Counsel for the petitioner submits that it is on 12th December, 2023 that a reply came to be filed by the petitioner alongwith supporting documents. The Adjudicating Authority in their submission, has failed to take into consideration the reply and

the documents.

7. Mr. Ochani, learned Counsel for the respondents submitted that the orders passed by the Adjudicating Authority as well as the Appellate Authority are in consonance with the Principles of Natural Justice. The petitioner was granted adequate opportunity to represent their case, but the opportunity was not availed and therefore the Adjudicating Authority had no option but to pass the order on the basis of materials available on record.

8. Learned Counsel Mr. Ochani further submitted that even the present petition is filed after the appeal period is over before the next Appellate Authority. Reliance is placed on the decision of Allahabad High Court in the case of ***Atlantis Intelligence Ltd Vs. Union of India***[1] in support of his submissions that where statutory appeal is not filed and after expiry of time frame for filing appeal, writ petition is filed, High Court cannot entertain writ petition as it would undermine or defeat application of statutory regime of GST.

9. We have heard the learned Counsel appearing for both the parties.

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10. We do find that petitioner was given an adequate opportunity to represent its case. The petitioner should have been more diligent and ought to have filed the reply and necessary documents within the time granted by the Adjudicating Authority. The petitioner filed the reply as well as the additional documents in support of his contention only on 12th December, 2023 i.e. the date on which, the order was passed by the Adjudicating Authority. In all fairness to the Adjudicating Authority, it must be recorded that an adequate opportunity has been granted to the petitioner.

11. The petitioner states that there are sufficient documents on record to indicate that the petitioner has not wrongly availed the Trans-1 credit of Rs.5,18,26,352/- and the said aspect has been dealt with in their reply dated 12th December, 2023. The petitioner has also produced documents in support of his contention. The petitioner could well have filed the reply with supporting documents before the date which was listed for passing orders by the Adjudicating Authority.

12. Though the documents were filed by the petitioner before the Appellate Authority, we find that there is no discussion so far as the

reply to Show-cause notice and documents filed before the Appellate Authority. Only in the interest of justice that we are inclined to grant one opportunity to the petitioner to file a reply to the Show-cause notice, subject to payment of costs.

13. Accordingly, the impugned orders are set aside. The Adjudicating Authority to hear the matter afresh.

14. It is made clear that the petitioner shall co-operate with the Adjudicating Authority and shall not seek any unnecessary adjournments. On the date fixed, the petitioner shall file the necessary documents in support of its case.

15. The petitioner to appear before the Adjudicating Authority on 21st October, 2026 at 11.00 a.m. alongwith necessary documents in support of its case. The Adjudicating Authority after hearing the petitioner, to decide the Show-cause notice expeditiously, in accordance with law.

16. The impugned orders are set aside subject to the petitioner paying costs of Rs.25,000/- to the Army Central Welfare Fund within a period of two weeks from today. The details of Army Central

Welfare Fund is as under :

Name of the Fund : Army Central Welfare Fund

Bank : Union Bank of India

Branch : Sarafa Market, Chandni Chowk, Delhi–110006.

IFSC : UBINO530778

Account No. : 520101236373338.

17. The petition is accordingly disposed of.

(SANDESH D. PATIL, J.) **(M. S. KARNIK, J.)**