

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1955 OF 2024

Rajkala Enterprises Pvt. Ltd. & Anr.

... Petitioners

Versus

Union of India & Ors.

... Respondents

Mr. Bharat Raichandani with Bhagrati Sahu i/b. UBR Legal, for Petitioners.
Ms. Jyoti Chavan, Addl. Govt. Pleader, for State.

**CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.**

DATE: 18 MARCH 2026

P.C.

1. This petition under Article 226 of the Constitution is filed praying for the following substantive reliefs:

(a) that this Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioners' case and after going into the validity and legality thereof, quash the impugned ex parte orders dated 30.03.2022 and 20.09.2022 as the same is without any jurisdiction and without authority of law and in violation of principles of natural justice;

(b) that this Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioners' case and after going into the validity and legality thereof, quash the impugned attachment notices dated 12.06.2023 and 14.06.2023 as the same are without any jurisdiction and without authority of law and in violation of principles of natural justice and direct respondent No.3 to lift the attachment with immediate effect;

(c) that this Hon'ble Court be pleased to issue a Writ of Mandamus or a writ in the nature of Mandamus or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions thereof direct the Respondent No. 3 by himself, direct to not take

any further coercive steps against the petitioners;

(d) that this Hon'ble Court be pleased to issue a Writ of certiorari / mandamus or any other appropriate Writ/order/ direction under Article 226 of the Constitution of India to declare impugned Section 16(4) of the CGST Act and MGST Act as null, void, arbitrary and violative of Article 14 and 300A of the Constitution of India;

(e) that this Hon'ble Court be pleased to issue a Writ of Writ/order/ direction under Article 226 of certiorari/ mandamus or any other appropriate Constitution of India to declare impugned Section 16(4) of the CGST Act and MGST Act as null, void, arbitrary and contrary to the provisions of Section 16(1) of the CGST and MGST Act;

(f) that this Hon'ble Court be pleased to issue a Writ of certiorari/ mandamus or any other appropriate Writ/order/ direction under Article 226 of the Constitution of India to declare impugned Section 16(4) of the CGST Act and MGST Act as null, void, arbitrary and violative of principle of *Lex Non Cogit Ad Impossibilia*;

(g) that this Hon'ble Court be pleased to issue a Writ of Mandamus or any other appropriate Writ/order/direction under Article 226 of the Constitution of India to stay the operation of the impugned Section 16(4) of the CGST Act and MGST Act till the pendency of the present petition;

(h) that this Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India, to read down the provision of Section 16(4) of the CGST Act shall be read down in a manner that availment of ITC in the books of accounts within the time limit prescribed under Section 16(4) is proper compliance of the said provision and making declaration under GSTR-3B is a procedural requirement and Input Tax Credit reflected in GSTR-2A also suffice the purpose of Section 16(4);

(i) that this Hon'ble Court may be pleased to issue Any writ, order or direction more particularly in the nature of a Writ of Declaration to declare that the conditions as prescribed in section 16(4) of the GST Acts are merely procedural in nature and cannot override the substantive conditions as mandated in section 16(1) and section 16(2) of the said Acts.

(j) that this Hon'ble Court may be pleased to issue Any writ, order or direction more particularly in the nature of a Writ of Declaration to declare that in view of the non obstante clause present in section 16(2) of the GST Acts the same would prevail over section 16(4) of the said Acts.”

2. The primary ground on which the petitioner challenges the order dated 30 March 2022 (Exhibit A2 to the petition) is to the effect that on 11 March 2022 a show cause notice was issued to the petitioner whereby petitioner was directed to attend at the office address of the State Tax Officer on 22 April 2022 at 11 a.m.

However, before the petitioner could file its representation and be heard on the scheduled date, i.e., on 22 April 2022, the impugned order came to be passed on 30 March 2022. It is in these circumstances, the present petition was filed.

3. Having heard learned counsel for the parties and on perusal of the record, we find substance in the contention as urged on behalf of the petitioner. It is clear from the concluding paragraph of the said notice issued to the petitioner dated 11 March 2022 that the petitioner was called upon to appear for hearing on 22 April 2022 and was also called upon to file a representation. The contents of the said notice are required to be noted, which read thus:

“(F) Concluding Paragraphs:

Ms. Rajkala Enterprises Private Limited are also directed to attend at aforesaid office Address at 11.00 a.m. on 22.04.2022.

Ms. Rajkala Enterprises Private Limited are also directed to file or cause to be filed representation in FORM GST DRC 06 along with evidence on which you rely in support of your claim on common portal.”

4. The impugned order, however, was passed on 30 March 2022 in regard to which, admittedly, no hearing was granted to the petitioner as also no opportunity to file reply to the said notice, was not granted to the petitioner. In this view of the matter, we are of the opinion that the petition needs to succeed on the limited ground that the impugned order has been passed in breach of the principles of natural justice.

5. The petition is accordingly disposed of in terms of the following order:

ORDER

(I) The impugned order dated 30 March 2022 (Exhibit A-2) passed by the State Tax Officer, is quashed and set aside.

(II) The proceedings stand remanded to the said Authority for a procedure to be followed in accordance with law, including granting an opportunity of hearing to the petitioner and a fresh order to be passed.

(III) Let this entire exercise be completed within a period of three months.

(IV) All contentions of the parties are expressly kept open.

6. Needless to observe that in the event, there is any recovery action on the basis of the impugned order, the same also cannot be given effect.

7. Disposed of. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)