

JYOTI
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 4204 OF 2024

Abnco Vie Win Ent Private
Limited

...Petitioner

Versus

Union Of India

...Respondents

Mr. Bharat Raichandani a/w. Bhagrati Sahu i/b. UBR Legal Advocates,
for Petitioner.

Mr. Y.R.Mishra a/w. Mr. Upendra Lokegaonkar and Mr. Sachidanand T. Singh,
for Respondent – UOI.

Ms. Jyoti Chavan, Addl. GP for Respondent- State.

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

DATE: 02 APRIL 2026

P.C.

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

(a) that this Hon'ble Court be pleased to issue a Writ of certiorari/
mandamus or any other appropriate Writ/ order/ direction under
Article 226 or Article 227 of the Constitution of India calling for the
records pertaining to the Petitioner case and after going into the validity
and legality thereof to quash and set aside impugned Show cause
notices dated 27.09.2023 to the extent challenged hereunder; Exhibit
A

b) that this Honble Court be pleased to issue a Writ of certiorari/
mandamus or any other appropriate Writ/ order/ direction under
Article 226 or Article 227 of the Constitution of India calling for the
records pertaining to the Petitioner case and after going into the validity
and legality thereof and hold that the impugned proceedings are
completely biased and conducted in the pre-meditated manner;

(c) 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 ordering and directing the Respondent No. 4 by
himself, his subordinates, servants and agents, pending disposal of the

present petition, not to initiate recovery of input tax credit, interest and penalty, proposed to be denied vide impugned show cause notices dated 27.09.2023, from the Petitioner and stay the same thereof till the pendency of the present petition;

(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 or Article 227 of the Constitution of India calling for the records pertaining to the Petitioner case and after going into the validity and legality thereof to quash and set aside impugned show cause notice dated 27.09.2023 and the proceedings conducted prior to the issuance of the show cause notice, inter alia, on the count that the request for cross-examination has been brushed aside without assigning any reason;

(e) 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(2) (c) of the CGST Act and MGST Act as null, void, arbitrary and violative of Article 14 of the Constitution of India;

(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(2) (c) 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; Exhibit A-2

(g) 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(2) (c) of the CGST certiorari/ mandamus or any other appropriate Writ/ order/ direction under Article 226 of the Constitution of India to declare impugned Section 16(2) (c) of the CGST Act and MGST Act as null, void, arbitrary and violative of principle of Lex Non Cogit Ad Impossibilia;

(h) 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(2) (c) of the CGST Act and MGST Act till the pendency of the present petition;

2. We are informed that, although an interim order was passed on 18th December 2023 by a co-ordinate Bench of this Court (of which one of us, G.S. Kulkarni, J., was a member), the Designated Officer has inadvertently proceeded to

adjudicate the show cause notice. According to the Petitioner, this amounts to a breach of the orders passed by this Court.

3. Ms. Jyoti Chavan, learned Additional Government Pleader, in these circumstances, submits that the order on the show cause notice dated 19th December 2023 came to be passed immediately on the next day after the ad-interim order, as the concerned officer was not aware of the said order. On instructions she fairly submits that the order can be withdrawn. In view thereof, we permit the said order to be withdrawn. Accordingly, the order dated 19th December 2023 is quashed and set aside as withdrawn.

4. We are also of the opinion that, considering the orders passed by this Court on a batch of petitions in *Lajwab Fabrics vs. Union of India & Ors.* (WP No. 11423 of 2024), the issue regarding the challenge to the validity of Section 16(2)(c) of the CGST Act and MGST Act, 2017, needs to be expressly kept open.

5. Accordingly the show cause notice shall be adjudicated afresh in accordance with law, after granting an opportunity of hearing to the Petitioner. The proceedings pursuant to the show cause notice be concluded within a period of six weeks from today.

6. All contentions of the parties are expressly kept open.

7. The petition stands disposed of in the aforesaid terms. No order as to costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)