IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 6021 of 2022

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M/S OSWAL INDUSTRIES LTD.
Versus
COMMISSIONER, THE CENTRAL GOODS AND SERVICE TAX AND CENTRAL EXCISE

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Appearance:
MR. JAIMIN R DAVE(7022) for the Petitioner(s) No. 1
for the Respondent(s) No. 1,2,3,4,5

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CORAM: **HONOURABLE MR. JUSTICE J.B.PARDIWALA**
and
HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 30/03/2022

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)

1. We have heard Mr. Tushar Hemani, the learned senior counsel assisted by Mr. Jaimin Dave, the learned counsel appearing for the writ applicant.

2. The writ applicant has established a unit in the name of M/s. Nimba Nature Cure Village at Baliyasan, Ahmedabad-Mehsana Highway. The writ applicant claims that Nimba is one of the largest Naturopathy Centers in India wherein it offers Ayush approved treatments of Naturopathy, Ayurveda, Yoga including Meditation, Physiotherapy and Special Therapy. Nimba also provides

advanced hydrotherapy and heat treatment like Hot Stone Therapy.

3. It is the case of the writ applicant that the services provided by Nimba is exempt from GST by virtue of Serial No.74 of the Notification No.12/2017 dated 28.06.2017 issued by the Government of India. It seeks to fall within the Heading 9993. It is the case of the writ applicant that it provides various health care services as a clinical establishment through authorized medical practitioner and para-medics.

4. The Gujarat Authority for Advance Ruling, Goods & Services Tax, vide its order dated 09.07.2020, gave a ruling that the writ applicant is not eligible to get the benefit of Entry No.74 of exemption notification referred to above. The aforesaid order passed by the Gujarat Ruling, Goods & Services Tax came to be affirmed by the Gujarat Appellate Authority for Advance Ruling vide its order dated 17th February, 2022. In such circumstances, the writ applicant is here before this Court.

5. The short point that falls for the consideration of this

Court is whether the writ applicant is eligible to get the benefit of Entry No.74 of exemption Notification No.12/2017, Central Tax (Rate) dated 28th June, 2017.

6. Let notice and notice as to interim relief be issued to the respondents, returnable on 13th April, 2022. On the returnable date, let the matter appear on top of the board.

Direct service is permitted.

(J. B. PARDIWALA, J)

(NISHA M. THAKORE,J)

Vahid