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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO. 13468 OF 2024**

M/s Rutu Enterprises .. Petitioner

Versus

The State of Maharashtra & Ors .. Respondents

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*Mr. Rahul Thakar i/b C. B Thakar, Advocates for the Petitioner.*

*Ms. S. D. Vyas, Addl. G.P. with Mr. Aditya Deolekar, AGP,  
for the State/Respondent Nos.1 to 3.*

*Mrs. Shehnaz V. Bharucha i/b A. A. Ansari, Advocates for  
Respondent No.4.*

*Mr. Ram Ochani with Mr. Suman Kumar Das, Advocates for  
Respondent No. 5.*

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**CORAM: B. P. COLABAWALLA &**  
**FIRDOSH P. POONIWALLA, JJ.**  
**DATE: MARCH 24, 2025**

**P. C.**

1. Time to carry out amendment as per the order dated 3<sup>rd</sup> March 2025 is extended by a period of one week from today.

2. We have heard the learned counsel appearing on behalf of the Petitioner as well as the learned counsel appearing on behalf of the Respondent Nos.1 to 3, Respondent No.4 and Respondent No.5 respectively.

3. The issue in the present case is with reference to Section 6 (2) (b) of the Central Goods and Services Tax Act, 2017 (“**CGST Act**”). According to the Petitioner, both, the State Tax Authorities as well as the Central Tax Authorities, for the same period have demanded recovery of tax from the Petitioner and arising out of the same issues, namely wrongly availing of Input Tax Credit or availing of excess Input Tax Credit. According to the Petitioner, as per the provisions of Section 6 (2) (b) read with the Circular issued by the Government of India, Ministry of Finance, Department of Revenue, Central Board of Excise & Customs dated 5<sup>th</sup> October 2018, only the Central Authority could have issued the show cause notice and taken it to its logical conclusion. In fact, the Central Tax Authorities have in fact done so and even passed an order dated 31<sup>st</sup> January 2025 (i.e. after the filing of the present Petition). In these circumstances, it is the case of the Petitioner that the order impugned in the present Petition passed by the State Tax Authorities cannot hold the field and would have to be set aside. This argument is premised on the basis that the Central Tax Authorities had initiated proceedings under Section 6 (2) (b) of the CGST Act, 2017 prior to initiation of any proceedings by the State Tax Authorities.

4. The learned counsel appearing on behalf of the State Tax Authorities (Respondent Nos.1 to 3) sought time to take instructions on this aspect and file an affidavit in reply, if any. Acceding to her request, we direct that the affidavit in reply, if any, shall be filed on or before 15<sup>th</sup> April 2025 and the copy of the same shall be served on the advocates for the Petitioner.

5. We now place the above matter on Board on 15<sup>th</sup> April 2025 under the same caption. We put the parties to notice that notwithstanding the aforesaid, we may dispose of the Writ Petition at that stage itself, time permitting.

6. In the meanwhile, and without prejudice to the rights and contentions of the parties, we direct that the impugned order dated 21<sup>st</sup> November 2023 passed by the State Tax Authorities shall remain stayed until further orders.

7. Stand over to 15<sup>th</sup> April 2025.

8. This order will be digitally signed by the Private Secretary/  
Personal Assistant of this Court. All concerned will act on production by fax  
or email of a digitally signed copy of this order.

**[FIRDOSH P. POONIWALLA, J.]**

**[B. P. COLABAWALLA, J.]**