

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 34 OF 2023

Karan Agencies ... Petitioner
vs.
Goods and Services Tax Council and Ors. ... Respondents

WITH
WRIT PETITION (ST.) NO. 93652 OF 2020
WITH
WRIT PETITION (ST.) NO. 93763 OF 2020
WITH
WRIT PETITION (ST.) NO. 94011 OF 2020
WITH
WRIT PETITION NO. 39 OF 2023
WITH
WRIT PETITION NO. 36 OF 2023
WITH
WRIT PETITION NO. 40 OF 2023
WITH
WRIT PETITION NO. 38 OF 2023
WITH
INTERIM APPLICATION NO. 4 OF 2021
AND
INTERIM APPLICATION NO. 823 OF 2023
AND
INTERIM APPLICATION NO. 1106 OF 2022
IN
WRIT PETITION NO. 11434 OF 2017
WITH
WRIT PETITION NO. 7404 OF 2021
WITH
WRIT PETITION NO. 8948 OF 2021
WITH
WRIT PETITION NO. 13184 OF 2019

**WITH
INTERIM APPLICATION (ST) NO. 5837 OF 2022
AND
INTERIM APPLICATION (ST) NO. 3838 OF 2020
IN
WRIT PETITION NO. 13184 OF 2019**

Ms. Arya Amil i/b. C.B. Thakar & Co. for the Petitioner in WP Nos.34/23, 36/23, 38/23, 39/23, 40/23 with WPST 94011/20.

Mr. Ishaan Patkar with Ms. Chaitali Raul i/b. Alaksha legal for the Applicant in IAST. 5837/22.

Ms. Shruti Tulpule for the Petitioners in WPSt. 93763/2020

Mr. Prakash Shah with Yash Prakash and Mr. Mohit Rawal i/b. PDS Legal for the Petitioner in WP 8948/21

Mr. Pradeep S. Jetly, Senior Advocate with Mr. Jitendra B. Mishra, Mr. D.B. Deshmukh and Mr. Satyaprakash Sharma for Respondent No.1 – CGST in WP 34/23, WPSt. 93652/20 and 11434/17, 13184/19.

Mr. Makrand Joshi i/b. Max Legal for the Petitioner in WP 11434/17, 13184/19. Mr. Deepak Bapat with Ms. Sonali Bapat for the Petitioner in WP 7404/21

Mr. Rohan Shah with Mr. Tushar Jarwal with Mrunal Parekh and Sri Sabari Rajan i/b. DMD Advocates for Respondent No.6

Mr. Devesh Tripathi for Respondent No.5 in WPSt. 93652/2020

Ms. Shruti D. Vyas, 'B' Panel Counsel for the Respondent – State in all Petitions.

**AND
WRIT PETITION NO. 7099 OF 2021
WITH
WRIT PETITION NO. 1502 OF 2022
WITH
WRIT PETITION NO. 7102 OF 2021
WITH
WRIT PETITION NO. 1501 OF 2022**

Mr. Deepak Bapat for Petitioner.

Mr. Sriram Sridharan for Respondent No.4.

**CORAM : NITIN JAMDAR AND
ABHAY AHUJA, JJ.**

DATE : 20 FEBRUARY 2023

P.C. :

. Heard learned Counsel for the Parties.

2 After hearing the parties on 1 February 2023, this group of Petitions was deferred till today. While granting adjournment we have noted the contentions of the learned Counsel in *International Spirit and Wine Association of India* that the issue is pending in the Hon'ble Supreme Court and the hearing of this Petition would be deferred till then. We have stated that the submission would be considered on the next date.

3 The main issue involved in this Petition is regarding levy of tax on Extra Neutral Alcohol. The question raised is whether the levy and collection should be under the State VAT Act or under the GST regime. Learned counsel for the Association has placed on record a copy of affidavit filed by the Union of India in Special Leave Petition (Civil) No. 7736 of 2022. He has drawn the attention of this Court to the stand taken by the Union of India that the subject matter would also include a policy decision by the GST Council.

4 Learned Counsel for the Association states that a Petition challenges the order passed by the Allahabad High Court is filed in the Hon'ble Supreme Court and that petition along with a group of petitions is being heard and the next date is likely to be 13 March 2023. Leaned Counsel submits that once the core issue is decided, the Petitions in this group can be decided on the basis of the same. The learned counsel for the Association reiterates the submission that the group be deferred.

5 There is a consensus amongst the learned Counsel that the issue as above which is pending in the Hon'ble Supreme Court does arise in the present group of petitions, but they state that the group of petition can proceed further. We find that since very issue is being considered and group of Petitions is being listed before the Hon'ble Supreme Court immediately, appropriate course of action would be to defer the hearing.

5 A grievance is made on behalf on the learned counsel representing the Buyers that the interim stay granted in this petition is affecting them and while granting interim relief, Petitioners-sellers did not place all the facts before the Court. The grievance made is that the Respondent-State is proceeding to assess the buyers to their prejudice.

6 Learned Counsel representing the buyers submits that the interim relief should not be continued and should be vacated.

7 As on today, we do not find any recovery notice issued to the buyers. If such recovery notices are issued by the Respondent-State, it is open to them to apply in the pending petitions, which application will be decided on its own merits.

8 In light of this position, stand over to **7 June 2023** to be listed under the caption “For Directions”

9 Ad-interim order operating in these Petitions to continue till the next date with the above clarification and liberty to the Buyers in this group as above.

10 Reply and rejoinder, if any, be filed before the next date. Also the amendments, if not carried out, the same be carried out before the next date.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)