HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Civil Writ Petition No. 9319/2024

Balaji Enterprises, Ward No. -18, Near Krishana Takij, Bhadra, District- Hanumangarh, Through Its Proprietor Kanhaiya Lal Son Of Shri Madan Lal, Aged About 42 Years.

----Petitioner

Versus

1. Union Of India, Through Its Secretary, Department Of Revenue, Ministry Of Finance, North Block, New Delhi.
2. State Of Rajasthan, Through The Secretary, Ministry Of Finance, Secretariat, Jaipur.
3. State Of Rajasthan, Through The Secretary, Ministry Of Finance, Secretariat, Jaipur.
4. Assistant Commissioner, Ward-Iii-Nohar, Circle A, State Goods And Service Tax, Hanumangarh.

----Respondents

For Petitioner(s)	:	Mr. Sharad Kothari
For Respondent(s)	:	Mr. Mukesh Rajpurohit, Dy. SG a/w Mr. Uttam Singh Rajpurohit Mr. Sunil Bhandari Mr. Rajvendra Sarswat Mr. A.S. Shekhawat for Mr. Mahaveer Bishnoi, AAG

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE YOGENDRA KUMAR PUROHIT

Order

30/05/2024

1. Learned counsel for the parties jointly submit that on the same facts and ground, an interim order was passed by a Division Bench of this Court on 15.03.2024 in ***D.B. Civil Writ Petition No.4239/2024 (Swastik Motors vs. Union of India & Ors.).*** The order reads as under :-

"1. Mr. Uttam Singh Rajpurohit under instructions from Mr. Mukesh Rajpurohit, learned Dy. S.G. appears for respondent no. 1. Mr. Rajvendra Saraswat, learned counsel appears for respondent no. 2.
2. It is stated that respondent nos. 3 to 5 are represented through Mr. Mukul Singhvi, learned counsel for the State-GST and copy of petition along with annexures has already been supplied to him.
3. Further submissions have been made that the petitioner has questioned the validity of provisions of Section 107(4) of the CGST/RGST Act, 2017 ('the Act') as well as notification dated 02.11.2023 issued under Section 148 of the Act.
4. Submissions have been made that the provisions of Section 107(4) of the Act restricts the right of the appellate authority to condone the delay in filing appeal by one month only and that though, notification dated 02.11.2023 has been issued inter alia providing for extended period of limitation in cases where the orders have been passed on or before 31.03.2023, the said date has no rationale, inasmuch as, when the order was issued on 02.11.2023, in several other cases where the orders were passed even after 31.03.2023, in those cases also the appeals had already become barred by limitation.
5. Further submissions have been made that petitioner is prepared to deposit 12½ % amount of the 'tax in dispute' in terms of the notification dated 02.11.2023.
6. Learned counsel appearing for the respondents prays for time to complete their instructions in the matter/file reply.
7. Time prayed for is allowed.
8. List the petition along with D.B. Civil Writ Petition No.892/2024 and connected matters, list of which maybe supplied in the Registry by Mr. Rajvendra Saraswat.
9. In the meanwhile and till the next date, in case the petitioner deposits 12.5% of the amount of 'tax in dispute' within a period of one week, the recovery of/action qua rest of the amount pursuant to the demand dated 22.08.2023 (Annex-3) shall remain stayed.
10. For the rest of the amount, the petitioner would submit solvent security to the satisfaction of Deputy Commissioner, State Tax, Ward-CTO, Circle Pratapgarh, Kar Bhawan, Pratapgarh (respondent no. 4).

11. As the interim order has been passed in presence of learned counsel for the respondents, they would be free to seek vacation of the interim order after filing response to the writ petition."

2. The afore-quoted interim order shall also operate in favour of the present petitioner and in case the petitioner deposits 12.5% of the amount of 'tax in dispute' within a period of one week, the recovery of/action qua rest of the amount pursuant to the demand dated 28.08.2023 (Annex.4) for financial year 2021-22 shall remain stayed.

3. For the rest of the amount, the petitioner would submit solvent security to the satisfaction of Assistant Commissioner, Ward-III Nohar, Circle A, State Goods And Service Tax, Hanumangarh (respondent no. 4).

4. As the interim order has been passed in presence of learned counsel for the respondents, they would be free to seek vacation of the interim order after filing response to the writ petition.

5. List the matter along with D.B. Civil Writ Petition No.5700/2024 after showing the name of Mr. Sunil Bhandari, as counsel for the respondent in the cause-list.

(YOGENDRA KUMAR PUROHIT),J (DR.PUSHPENDRA SINGH BHATI),J

71-sudheer/-