2026:BHC-AS:32213-DB

Pallavi

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.673 OF 2024

BVG India Limited …Petitioner
Versus
Union Of India …Respondent

Mr Bharat Raichandani, a/w Mr. Mahesh Raichandani and Bhagrati Sahu i/b. UBR Legal Advocates for the Petitioner.
Smt. Shruti D. Vyas, Addl. GP, a/w A.R. Deolekar, AGP for the Respondent- State.
Mr Karan Adik, a/w Sangeeta Yadav for the Respondent Nos.1, 3, 4 and 5.

CORAM: **SUMAN SHYAM &**
ADVAIT M. SETHNA, JJ.

RESERVED ON : **20th JULY 2026.**
PRONOUNCED ON : **5th AUGUST 2026.**

ORDER (Per : Advait M. Sethna, J.):-

1. The Writ Petition is filed primarily challenging the Garnishee Notices bearing different dates, more particularly, Notices dated 30th March 2023 ("***Impugned Notices***"). These are issued by Respondent No.4 in FORM GST DRC-13 under Rule 145(1) of the Central Goods and Services Tax Rules ("***CGST Rules***") read with Section 79(1)(c) of the Central Goods and Services Tax Act, 2017 ("***CGST Act***").

2. Heard. Rule. Rule returnable forthwith, with the consent of the parties.

3. The Petitioner has assailed the Impugned Notices which seek recovery of interest under Section 50 of the CGST/MGST Act, 2017, for the F.Y. 2017-18 to F.Y. 2021-22.

4. Mr. Raichandani, learned counsel for the Petitioner would firstly contend that there is no show-cause notice issued to the Petitioner, neither is there any adjudication of its interest liability, by the Respondents. He would further submit that there is a dispute between the Respondents and Petitioner about computation of interest liability. The Petitioner made representations vide letters dated 25th August 2023 (**Exh.- P**) and 27th October 2023 (**Exh.-R**) setting out the requisite details along with the interest computation. However, without any adjudication of the same, the Respondents proceeded to initiate garnishee proceedings against the Petitioner's debtors.

5. Mr. Raichandani would rely on the following decisions :-

(i) ***Assistant Commissioner of CGST & Central Excise & Anr. Vs. M/s. Daejung Moparts Pvt. Ltd.***[1];

(ii) ***Mahadeo Construction Co. Vs. Union of India & Ors***[2];

(iii) ***R.K. Transport Private Limited Vs. Union of India & Anr.***[3];

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1 W.A. Nos.2127 and 2151 of 2019 dated. 19.12.2019

2 2020 SCC OnLine Jhar 1725

3 2022 SCC OnLine Jhar 1782

(iv) ***Union of India & Ors vs. LC Infra Projects Pvt. Ltd.***[4];

(v) ***Kesoram Industries Ltd vs. Commissioner of Central Tax***[5];

This in support of his contention that without undertaking adjudication as stipulated under Section 73, 74 of the CGST Act, no recovery proceeding under Section 79 thereof can be initiated, by the Respondents, for recovery of the alleged interest amount.

6. Mr. Raichandani has further relied on the following judgments :-

(i) ***Arya Cotton Industries & Anr. vs. Union of India & Anr.***[6];

(ii) ***Vision Distribution (P) Ltd. vs. Commissioner, State Goods & Services Tax and Ors.*** [7];

He would in the above context submit that once the amount deposited in the Electronic Cash Ledger is in the nature of advance tax and interest under Section 50 of the CGST Act, being compensatory in nature, such interest, can be levied only till the date of such deposit. Once the amount stands credited to the Government Treasury, no further interest can be demanded, merely on the ground of subsequent filing of the Returns.

7. Mr. Raichandani would urge that in light of the law laid down in the aforementioned decisions, the actions of the

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4 2020 SCC OnLine Kar 5093

5 [2023] 155 taxmann.com 107 (Telangana)

6 2024 SCC OnLine Guj 3107

7 2019 SCC OnLine Del 12136

Respondents culminating in the Impugned Garnishee Notices are illegal and unsustainable.

8. Per Contra, Mr. Adik, the learned counsel for the Respondent Nos. 3 to 5 would primarily submit that mere deposit of money into the Electronic Cash Ledger by the Assessee, does not amount to payment and/or discharge of its tax dues. In this context, Mr. Adik has placed due reliance on the following judgments:-

(1) ***Megha Engineering & Infrastructures Ltd. vs. Commissioner of Central Tax***[8];

(2) ***RSB Transmissions (India) Ltd. vs. Union of India***[9] *and;*

(3) ***Sona Enterprises vs. Union of India***[10]*.*

9. Mr. Adik has placed reliance on the decision of the Orissa High Court in ***P.K. Ores Pvt. Ltd. Vs. Commissioner of Sales Tax***[11]. The Court observed that since interest is an integral part of tax which is belatedly paid in respect of self-assessment, Section 80 of Orissa Goods and Services Tax Act, 2017 clearly excludes grant of instalment. There is no scope for the Commissioner of CT & CGST to entertain application for the grant of instalment. Moreover, the interest levied on account of such belated deposit of admitted tax as per self-assessed Returns cannot be allowed to be deposited in instalments. Accordingly, the Assessee shall be liable to pay prescribed interest on the amount due from first day such tax was

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8 Writ Petition No.44517 of 2018 decided on 18-04-2019.

9 2022 SCC OnLine Jhar 1788.

10 2026 SCC OnLine AP 1236.

11 (2023) 108 GSTR 457

due to be payable till date tax is paid. In view of the *proviso* to Section 80, if default occurs in payment of one instalment, the Assessee would be required to deposit the entire outstanding balance payable on the date of default, without further notice. The Commissioner of CGST was, therefore, justified in rejecting the contention of the Assessee to deposit interest levied on belated deposit of admitted tax under self-assessed Returns, furnished in terms of Sections 39, 59, 80 of the OGST/CGST Act read with Rule 158 thereof.

10. Mr. Adik would in the above context submit that the Petitioner's contentions being contrary to the law as referred to above, do not merit acceptance, in the given factual matrix. However, Mr. Adik has fairly agreed that the Representations of the Petitioner dated 25th August 2023 (**Exh.-P**) and 27th October 2023 (**Exh. - R**) remains to be decided by the Respondent No.4. In view thereof, the Court would pass appropriate orders/directions in the given facts and circumstances.

11. We have perused the record and analysed the rival contentions of the learned counsel for the parties before us. The issue that arises for our determination in these proceedings is whether the interest on self-assessed tax pursuant to filing such returns attract adjustment/deductions on account of the amount available in the Petitioner's Electronic Cash Ledger. Consequently, whether in such fact situation, the Garnishee proceedings initiated by way of the Impugned Notices, would be sustainable in the eyes of law.

12. In the aforesaid backdrop, upon hearing the learned counsel for the parties, we find that there are decisions where differing/contradictory views are taken by Courts on the issues formulated above. However, it is an admitted position that the Representations of the Petitioner dated 25th August 2023 (**Exh.-P**) and 27th October 2023 (**Exh. - R**) are not decided and/or adjudicated by the Respondent No.4.

13. In light of the above, in our considered view, it would be prudent to direct the Respondents to decide such Representations of the Petitioner in light of the legal provisions and the applicable judicial pronouncements. Therefore, in our view, the following Order would serve the ends of justice.

ORDER

(i) The Representations of the Petitioner dated 25th August 2023 **(Exh.-P)** along with another dated 27th October 2023 **(Exh.-R)** be decided by Respondent No.4 on its own merits and in accordance with law by passing a reasoned order.

(ii) The said/concerned Respondent shall intimate the Petitioner once such decision on the Petitioner's Representations is taken.

(iii) We clarify that we have not delved into the merits of the rival contentions which in the given factual complexion, are expressly kept open.

(iv) Considering the nature of the issues raised the Respondent No.4 may decide the Representations of the Petitioner as expeditiously as possible and in any event, within six weeks from the uploading of the order.

(v) Needless to clarify that such decision by the concerned Respondent would have a bearing on the Impugned Notices and the actions taken in furtherance thereof. Accordingly, we direct that the Respondents shall not take any precipitative steps pursuant to the Impugned Notices until the decision on the said Representations is taken and intimated to the Petitioner. In the event such decision goes against the Petitioner, in exercise of our discretionary jurisdiction, we direct that the same shall not be acted upon for a further period of 3 weeks thereafter, so as to enable the Petitioner to take appropriate legal steps, in accordance with law.

14. The Petition is Disposed of in the above terms. No Costs.

15. All concerned to act on an authenticated copy of this order.

(ADVAIT M. SETHNA, J.) **(SUMAN SHYAM, J.)**