IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2968 OF 2024

Abracadabra India and Ors. .....Petitioners

Versus

The Union of India & Ors. .....Respondents

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Mr. Nikhil Sakhardande, Senior Advocate a/w Ms. Swagata for the Petitioners.

Mr. Himanshu Takke, A.G.P, for the Respondent-State.

Mr. Jitendra B. Mishra a/w Ms. Sangeeta Yadav for the Respondent Nos.2 & 3.

Mr. Jitendra B. Mishra a/w Mr. Ashutosh Mishra for the Respondent No.1.

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CORAM : M. S. KARNIK &
SANDESH D. PATIL, JJ.

DATE : 16th OCTOBER, 2026

JUDGMENT (PER SANDESH D. PATIL, J.)

1. The petitioner has approached this Court seeking several reliefs. At the outset, the learned Senior Counsel appearing for the petitioner submits that he does not press prayer clauses (a) and (b) of the petition inasmuch as, the said prayers are now taken care of by the Judgment of the Hon'ble Supreme Court. The petitioner, however, presses prayer clause (c).

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2. The case of the petitioner is that the respondent No.5 has arbitrarily demanded service tax arrears allegedly payable by the petitioner and therefore, the petitioner is challenging the validity of the proceedings instituted against the petitioner, resulting in the order dated 31st March 2023 issued by the respondent No.5 which alleges that an amount of Rs.62,42,948/- is payable by the petitioner as tax interest and penalty. The learned Counsel for the petitioner stated that the impugned order is bad in law, it is a result of non-application of mind, the notice which was issued to the petitioner was not duly received by the petitioner. The same were posted in the Additional Notices and Orders Section in the User Services tab, in the detailed dropdown dashboard of the GST portal. It is the contention of the petitioner that on 17th November, 2023, upon being informed of SGST proceedings by the respondent No.5 via phone call, petitioner Nos.2 and 3 requested their Chartered Accountant to investigate about the said proceedings. The Chartered Accountant erroneously stated that no Show-cause Notices were found on the GST portal. It is the contention of the petitioner that they, however, later on, through independent scrutiny by the petitioners' legal Counsel discovered that notices were indeed issued, however they

were not visible in the Order and Notices Section on the homepage, but in the Additional Orders and Notices Section in the Services Tab. They contended that on account of the aforesaid reason, they remained unaware of the notices.

3. The learned Counsel appearing for the petitioner relied upon the Judgment of this Court in the matter of ***T.S.Lines India Pvt.Ltd. V.s The State of Maharashtra & Ors.***[1] to buttress his submissions.

4. The learned Counsel appearing of the Revenue Department has contested the contention of the petitioner. He stated that the petitioners were duly served. He invited our attention to the impugned notices, the order as well as to the affidavit-in-reply filed by the Revenue Department.

5. We have considered the rival submissions. We have gone through the documents on record.

6. It is the case of the petitioner that the notices, admittedly were not served upon the petitioner. The notices were not posted on the homepage of the GST portal of petitioners, but, they were sent in the

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Additional Notices & Orders Section in the User Service Tab. We have gone through the Judgment in the case of ***T.S.Lines India Pvt. Ltd. (supra)***, wherein, this Court has observed in para 12 as under :

> *"12. We are therefore, of the view that no mistake can be attributed to the Petitioner for not having noticed the Notice or the Order on the portal. It is clear that all orders and notices were required to be placed in the "View Notices and Orders" window/portal. It is also appears to be quite clear from the perusal of the record that the Petitioner was not heard. It had no opportunity to reply to the show cause notice."*

7. We are in agreement with the view of the Division Bench of this Court. In the present case also the notices were not placed in the view Notices and Orders portal. The petitioner was not heard and had no opportunity to present their case.

8. In these circumstances, we are inclined to set aside the impugned Judgment and Order. Hence, the following order :

ORDER

(i) Writ Petition No. 2968 of 2024 is allowed in terms of prayer clause (c), which reads thus :

> *"(c) Issue a writ of certiorari, or any other appropriate order or direction in the nature thereof calling for the records and proceedings emanating from the documents titled ASMT 10 (dated January 25, 2022 and February 24, 2022); DRC 01A (dated May 4, 2022 and May 12, 2022); Show Cause Notice and Form DRC 01A dated August 3, 2022 (along with the attachment to DRC01 dated July 19, 2022); and Impugned Order and Form DRC 07 dated March 31, 2023 (and the Summary of Order dated March 31, 2023; and the letter dated November 17, 2023 to HDFC Bank under Section 79 of the CGST Act. and after perusing the same, the Hon'ble Court be pleased to quash the Impugned Order and all the documents, directions and proceedings thereunder; and pending the proceedings hereunder, the Hon'ble Court may be pleased to grant a stay on any steps that may be taken by the Respondents in pursuance of the proceedings mentioned in hereinabove (including but not limited to the Impugned Order)"*

(ii) The question of limitation in respect of Show-cause notice is kept open, to be decided by the respondent No.5.

(iii) Both the parties to appear before the respondent No.5 on 27th October, 2026 at 11.00 a.m.

(iv) The petitioner is at liberty to file reply, if required.

(v) After the pleadings are completed, the respondent No.5 to pass appropriate orders within a period of four weeks thereafter.

(vi) It is made clear that, the parties shall co-operate for expeditious hearing of the proceedings and shall not take unnecessary adjournment.

(vii) The petition is disposed of on the aforesaid terms.

(SANDESH D. PATIL, J.) **(M. S. KARNIK, J.)**