IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 802 OF 2021

Colgate Global Business Services Pvt. Ltd.   ]
8th Floor, Tower B, L & T Business Centre   ]
Saki Vihar Road, Powai,   ]
Mumbai – 400 072.   ]   … Petitioner

Versus

1.   The Union Of India   ]
        Through the Ministry of Finance,   ]
        Department of Revenue,   ]
        having its Office at Udyog Bhavan,   ]
        New Delhi – 110 011.   ]

2.   Commissioner of State Tax   ]
        GST Bhavan, New Building, Mazgaon   ]
        Mumbai – 400 010.   ]

3.   Deputy Commissioner of State Tax   ]
        MUM-VAT-E-103, Mumbai Nodal   ]
        Division 12, 2nd Floor   ]
        GST Bhavan, New Building, Mazgaon   ]
        Mumbai – 400 010.   ]   … Respondents

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Mr.Jitendra Motwani a/w. Ms.Rinky Jassuja i/b. M/s. Economic Laws Practice
for Petitioner.
Mr.Jitendra B. Mishra a/w. Ms.Sangeeta Yadav for Respondent No.1.
Ms.Jyoti Chavan, A.G.P. for Respondent Nos.2 & 3.

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                                CORAM   :   R. D. DHANUKA &
                                                    S. M. MODAK, JJ.

                                DATE   :   25th JANUARY 2022.
                                (Through Video Conference)

ORAL JUDGMENT (PER : R. D. DHANUKA, J.) :-

1.   Rule.

2.   Mr.Mishra, learned counsel for Respondent No.1 waives service. Mr.Chavan, learned A.G.P. for Respondent Nos.2 and 3 waives service. By consent of learned counsel for the parties, Petition is heard finally.

3.   By this Petition filed under Article 226 of the Constitution of India, the Petitioner has impugned the Order dated 15th June 2020 passed by the Respondent No.3 thereby rejecting the application for refund made by the Petitioner.

4.   The Petitioner has challenged the said impugned Order mainly on the ground that the Respondent No.3 was bound to record reasons in the Order while rejecting the application for refund in view of Rule 92(3) of the Central Goods and Services Tax Rules, 2017.

5.   A Perusal of the impugned Order indicates that the Respondent No.3 has rejected the application for refund without recording any reasons, though the same is mandatory under Rule 92(3) of the Central Goods and Services Tax Rules, 2017. In our view, the Order passed by the Respondent No.3 is in breach of the said provisions and deserves to be granted and set aside.

6.   Ms.Chavan, learned A.G.P. for Respondent Nos.2 & 3, on instructions, states that the Respondent No.3 would pass a fresh Order in compliance with Rule 92(3) of the Central Goods and Services Tax Rules, 2017 after rendering an opportunity to the Petitioner of being heard expeditiously. Statement is accepted.

7.   We accordingly pass the following Order :-

    (a)   Impugned Order dated 15th June 2020 passed by the Respondent No.3 is quashed and set-aside.

    (b)   Application for refund made by the Petitioner for the period July 2017 to March 2018 for the sum of Rs.4,33,03,066/- is restored to file before the Respondent No.3.

    (c)   The Petitioner is directed to remain present before the Respondent No.3 for personal hearing on 2nd February 2022 at 11.00 am.

    (d)   Respondent No.3 shall pass a fresh Order without being influenced by the observations made and the conclusions drawn in the impugned Order dated 15th June 2020 and in accordance with law expeditiously and not later than three weeks from the date of granting personal hearing to the Petitioner.

    (c)   The Order that would be passed by the Respondent No.3 shall be conveyed to the Petitioner within one week from the date of passing of the said Order. If refund application is allowed, the Respondent No.3

shall refund the amount due to the Petitioner within two weeks from the date of passing of such Order. If the Order is adverse against the Petitioner, the Petitioner would be at liberty to file appropriate proceedings.

8.   Writ Petition is allowed in the aforesaid terms.

9.   Rule is made absolute.

10.   Parties to act on the basis of an authenticated copy of this Order.

OMKAR SHIVAHAR KUMBHAKARN
Digitally signed by OMKAR SHIVAHAR KUMBHAKARN
Date: 2022.01.27 16:50:32 +0530

[S. M. MODAK, J.]   **[R. D. DHANUKA, J.]**