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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

***ORDINARY ORIGINAL CIVIL JURISDICTION***

**WRIT PETITION (L) NO. 30285 OF 2021**

**Suumaya Industries Ltd.**

**..... Petitioner**

**VERSUS**

**Union of India & Ors.**

**..... Respondents**

Mr.Abhishek A.Rastogi, a/w. Mr.Mahir Chablani, Ms.Kanika Sharma,  
i/b. M/s.Khaitan & Co.for the Petitioner.

Mr. Pradeep S.Jetly, Senior Advocate, a/w. Mr.Jitendra B.Mishra for  
the Respondent no.2.

Mr.Jitendra B.Mishra, a/w. Mr.Dhananjay B.Deshmukh for the  
Respondent nos. 1, 3 and 5.

Mr.Dushyant Kumar, A.G.P. for the State – Respondent no.4.

**CORAM: R. D. DHANUKA AND  
S.M.MODAK, JJ.**

**DATE : 31<sup>st</sup> JANUARY, 2022  
(Through Video Conference)**

**P.C:-**

The matter was argued for sometime. Mr.Mishra, learned counsel for the respondents seeks time to file affidavit in reply. During the course of the arguments, this Court suggested whether the Managing Director of the petitioner can appear in response to the summons issued to him annexed at page 106 of the writ petition and co-operate with the authority. Learned counsel for the petitioner states

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that the Managing Director of the petitioner may not be a competent witness. The Group Chief Finance Officer can be asked to appear before the authority in response to the summons. The petitioner challenges the power of the authority under section 70 of the Central Goods and Services Tax Act, 2017 at the first instance to issue such summons on the ground that the State GST authority has already blocked the utilized ITC to the tune of Rs.1.57 crores in terms of rule 86A of the CGST Rules on 24<sup>th</sup> January, 2020 and 25<sup>th</sup> January, 2020.

2. It is the case of the petitioner that the petitioner has paid/deposited the substantial amount with the authority under the State GST Act as well as deposited various amounts with the respondent no.5. It is submitted that though the managing director of the petitioner has appeared in response to the writ petition issued to him by the respondent no.5 once, since he is not a competent authority, he is not liable to appear in response to the said summons.

3. We grant the respondents four weeks time to file affidavit in reply which shall be served upon the petitioner's advocate simultaneously. Rejoinder, if any, to be filed within two weeks

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thereafter with a copy to be served upon the respondents' advocate simultaneously.

4. Place the matter on board for admission on **28<sup>th</sup> March, 2022**.
5. It is made clear that this Court has not granted any stay of the summons or any other proceedings proposed to be initiated by the respondents against the petitioner during the pendency of this petition till next date.
6. The respondents shall deal with the prayer clause (vii) also in the affidavit in reply proposed to be filed regarding supply of copies of the Panchanama.

**[S.M.MODAK, J.]**

**[R.D.DHANUKA, J.]**