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

WRIT PETITION NO.528 OF 2021

M/s Ekta Supreme Corporation ... Petitioner
Versus
The Commissioner of State Tax
And Another ... Respondents

Mr. Ishaan Patkar a/w Ms. Nidhi Shah and Ms. Jindagi Shah for the Petitioner.

Ms. Jyoti Chavan, AGP for the Respondent-State.

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

**DATE : 1 FEBRUARY 2022.
(Through Video Conference)**

P. C. :

. Rule.

2 Ms. Chavan, the learned AGP for the Respondent-State waives service. By consent of learned Counsel for the parties, the Petition is taken up for hearing and disposal. By this Petition filed by the Petitioner under Article 226 of the Constitution of India, the Petitioner prays for quashing and setting aside the Orders dated 12 December 2019 and 31 December 2019, being Exhibit 'D' and Exhibit 'E', respectively, to the Petition.

3 When this matter was on Board on 4 January 2022, the learned AGP for the State agreed to make a statement, as to, whether there are any reasoned Orders passed by the Respondent-State, of which such Summary of Orders

were issued by Respondent No.2 on 12 December 2019, Exhibit 'D' to the Petition. This Court had granted ad-interim relief in terms of prayer Clauses (b) and (g) of the Petition.

4 Ms. Chavan, the learned AGP for the State, on instructions, states that there are no other Orders passed by the Respondent-State, other than Summary of Orders issued by Respondent No.2 on 12 December 2019.

5 Learned AGP, further on instructions states that Respondent No.2 would issue a show-cause notice under Section 73 of the Central Goods and Services Tax Act, 2017 (CGST Act) and as per the provisions of Maharashtra Goods and Services Tax Act, 2017 (MGST Act) to the Petitioner and would pass a fresh Order after giving an opportunity of being heard to the Petitioner and in accordance with law. The statement is accepted.

6 In view of the statement made by the learned AGP for the State, we pass the following Order :-

- (a) The impugned Orders dated 12 December 2019 and 31 December 2019, being Exhibits 'D' and 'E', respectively, are accordingly quashed and set aside.
- (b) The Respondents are permitted to issue a show-cause notice under Section 73 of CGST Act and MGST Act to the Petitioner. The Respondents shall grant an opportunity of being heard to the Petitioner and to file a reply to the show-cause notice.
- (c) The Respondents are directed to decide the matter on its own merits in accordance with law and not being influenced by the observation made and the conclusion drawn in the impugned

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Orders dated 12 December 2019 and 31 December 2019 as expeditiously as possible and not later than twelve weeks from the date of receipt of this Order.

(d) The Order that would be passed shall be communicated to the Petitioner within one week from the date of passing of the Order.

7 Since the impugned Orders dated 12 December 2019 and 31 December 2021 do not survive, a garnishment and attachment Order dated 10 December 2021 also does not survive and is, accordingly, quashed and set aside.

8 The Writ Petition is allowed in the aforesaid terms. **Rule** is made absolute accordingly. No order as to costs.

9 The parties to act on an authenticated copy of the Order.

RAJESH
VASANT
CHITTEWAN

Digitally signed by
RAJESH VASANT
CHITTEWAN
Date: 2022.02.02
18:32:55 +0530

[S. M. MODAK, J.]

[R. D. DHANUKA, J.]