

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC. CIVIL APPLICATION (FOR DIRECTION) NO.1 of 2020

In

R/SPECIAL CIVIL APPLICATION NO.10479 of 2019

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ADI ENTERPRISES

Versus

UNION OF INDIA

Appearance :

UCHIT N SHETH for the APPLICANT.

PRIYANK P LODHA for the RESPONDENT.

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CORAM: **HONOURABLE MR. JUSTICE A.J.DESAI**

and

HONOURABLE MR. JUSTICE BHARGAV D. KARIA

Date : 08/06/2022

IA ORDER

(PER : HONOURABLE MR. JUSTICE A. J. DESAI)

1. Rule. Mr. Priyank P. Lodha, learned Central Government Standing Counsel waives service of rule on behalf of the respondents.

2. By way of the present application, the applicants - original petitioners have prayed to direct the respondents to grant refund of the amount of IGST already paid by the applicants pursuant to the Entry No.10 of Notification No.10/2017-IGST (Rate) dated 28.6.2017 with appropriate interest on such refund.

3. Mr. Uchit N. Sheth, learned advocate appearing for the applicant would submit that the reason for filing the present application is that vires of Entry No.10 of Notification No.10/2017-IGST (Rate) dated 28.6.2017 issued under the Integrated Goods and Services Tax Act, 2017 was challenged by the applicant by way of captioned writ petition along with other identical writ petitions.

The Division Bench of this Court vide judgment and order dated 23.1.2020 passed in the captioned writ petition along with other writ petitions allowed the writ petitions and declared Entry No.10 of Notification No.10/2017-IGST (Rate) dated 28.6.2017 as ultra vires the Act. He would further submit that during the pendency of the present application, Civil Appeal No.1390 of 2022 and allied appeals preferred at the instance of the respondents also came to be dismissed by judgment and order dated 19.5.2022 passed by Hon'ble Apex Court. He, therefore, would submit that in view of the above referred order of Hon'ble Apex Court, necessary direction may be issued to the respondents to refund the amount of tax already paid by the applicant.

4. We have heard learned advocates appearing for the respective parties and considered the decision of the Hon'ble Apex Court upholding the decision of the Division Bench of this Court rendered in group of writ petitions, referred to herein above. In view of the above, we are of the opinion that the present application requires consideration and hence, the same is allowed in terms of prayer 6 (a). The respondents are hereby directed to grant refund of the amount of IGST already paid by the applicants pursuant to the Entry No.10 of Notification No.10/2017-IGST (Rate) dated 28.6.2017 along with statutory rate of interest on such refund within a period of four weeks from the date of submission of necessary documents by the applicants. Rule is made absolute.

(A. J. DESAI, J)

(BHARGAV D. KARIA, J)