

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO. 9130 OF 2022**

Exotech Plastics Pvt. Ltd.

.....Petitioner

Vs.

Union of India and Ors.

.....Respondents

Mr. Makrand Joshi i/by Mat Legal for Petitioner.

Mr. Jitendra Mishra a/w Dhananjay Deshmukh for Respondent Nos.1, 3 &amp; 4.

Ms. S. D. Vyas, GP 'B' Panel for Respondent Nos.2 &amp; 5.

CORAM : K. R. SHRIRAM &amp;

A. S. DOCTOR, JJ.

DATE : 4<sup>th</sup> AUGUST, 2022.**P.C.:-**

1. A show cause-cum-demand notice dated 13<sup>th</sup> May, 2022 issued by the Deputy Commissioner CGST & CEX, Respondent No.4, is under challenge in this Writ Petition. By the impugned notice, explanation has been called for from the Petitioner as to why action, as proposed in paragraph 8 thereof, may not be taken. Petitioner has also challenged the vires of section 16(2)(c) of the Central Goods and Services Tax Act, 2017 (hereafter 'the CGST Act', for short).

2. Having heard learned advocate for Petitioner, prima facie, we find no reason to interfere with the show cause notice in view of the decision of the Supreme Court in the case of *The Special Director and Anr. Vs. Mohd. Ghulam Ghouse and Anr.*<sup>1</sup>. We would have relegated the

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<sup>1</sup> (2004) 3 SCC 440

Petitioner to the Respondent No.4, but for the challenge to the vires of section 16(2)(c) of the CGST Act. The point raised needs to be dealt with upon notice to Respondents.

3. Issue notice to Respondents, returnable on 15<sup>th</sup> September, 2022. Since the vires of section 16(2)(c) of the CGST Act is under challenge, Petitioner is directed to put the Attorney General for the Union of India on notice.

4. Pendency of the writ petition shall, however, not preclude respondent no.4 to take the proceedings arising out of the impugned show cause notice to its logical conclusion; however, any order passed in such proceedings shall be subject to and abide by the result of this Writ Petition. If the Petitioner is so advised, it may participate in the proceedings without prejudice to its rights and contentions herein.

5. Similar matter being Writ Petition (L) No.23044 of 2021 is pending. Present Petition be also tagged along with the same.

**(A. S. DOCTOR, J.)**

**(K. R. SHRIRAM, J.)**