



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

WRIT PETITION (L) NO.7314 OF 2022

Kshitija Infrastructure Private Limited ... Petitioner

V/s.

The Union of India and ors. ... Respondents

Mr.Prakash Shah with Mr.Jas Sanghavi i/by M/s PDS Legal, Advocates
for the Petitioner.

Mr.J.B.Mishra with Mr.Dhananjay Deshmukh, Advocates for the
Respondents.

CORAM : NITIN JAMDAR AND
ABHAY AHUJA, JJ.
DATE : 29 MARCH 2023.

P.C.:-

1. The Petitioner is before us challenging the show cause notice dated 9 February 2022 issued by the Additional Commissioner, Central Goods and Services Tax and Central Excise, Mumbai.

2. The grievance of the Petitioner is that prior to issuance of show cause notice a pre-show cause notice consultation is mandatory as per the provisions of Master Circular No.1053/02/2017-CX dated 10 March 2017 issued by Central Board.

3. The learned counsel for the Petitioner contended that though the notice was issued to the Petitioner to attend for pre-show cause notice consultation, though time was given, it was not possible for the Petitioner to attend the pre-show cause notice consultation. The learned counsel for the Respondents submits that ample opportunities were given to the Petitioner to attend the pre-show cause notice consultation.

4. However, we do not intend to go into that aspect at this stage as admittedly pre-show cause notice consultation has been facilitated to the Petitioner in this case. Considering the object behind the pre-show cause notice consultation which is beneficial to the assessee as well as revenue, we are of the opinion that the situation has been remedied by fixing the date for the pre-show cause notice consultation. The learned counsel for the parties leave it to the court to fix the date for pre-show cause notice consultation. Accordingly, the Petitioner will appear before the concerned Adjudicating Authority on 10 April 2023. Concerned Adjudicating authority will thereafter fix a suitable date for pre-show cause notice consultation.

5. If in the pre-show cause notice consultation the Adjudicating Authority is of the opinion that there exists the liability of the Petitioner and show cause notice is to be pursued then it is open to the Petitioner to take necessary steps as may be warranted in law and fact to challenge the show cause notice.

6. Till the pre-show cause notice consultation process is over, the impugned show cause notice shall not be given effect to.

7. Writ Petition is accordingly disposed of.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)

....