



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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WRIT PETITION NO.8095 OF 2023

Seya Industries Limited

....Petitioner

V/s.

The State of Maharashtra & Ors.

...Respondents

Mr. Prakash Shah a/w Mr. Suyog Bhare i/by Durgaprasad Poojari for petitioner.

Ms. S.D. Vyas, Addl. G.P. a/w Mr. M.M. Pable, AGP for respondent nos.1 & 2.

Mr. Sagar S. Ambedkar for respondent no.3-UOI.

CORAM : K.R. SHRIRAM &
JITENDRA JAIN, JJ.

DATE : 15th JULY 2024

P.C. :

1 Petitioner is engaged in the business of manufacturing of specialty chemicals at its factory in Tarapur. The Directorate General of GST Intelligence (DGGI), Nagpur had initiated investigation against petitioner in 2017. Subsequent thereto, petitioner had also filed an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC) before NCLT, Mumbai. The application was admitted and moratorium has been declared. Mr. Shah states that this application is set aside by National Company Law

Appellate Tribunal, but presently another application under IBC against petitioner has been admitted.

2 On or about 23rd September 2022, the DGGI issued a show cause notice regarding alleged inadmissible Input Tax Credit (ITC) availed by petitioner for FY 2017-18 to FY 2019-20. That show cause notice is still pending adjudication.

3 To cut the matter short, the DGGI i.e. respondent no.3 blocked an amount of Rs. 9,07,70,396/- from the available ITC in petitioner's Electronic Credit Ledger and additionally created negative balance of Rs. 97,46,27,058/-. Effectively, a sum of Rs. 1,06,53,97,454/- has been blocked.

4 Petitioner approached this Court by way of this petition and has sought various reliefs, the primary relief being to quash and set aside the action of respondents of blocking available ITC.

5 Mr. Shah submitted that even assuming for sake of argument, it is assumed that what respondents did was not correct, still under Rule 86A (3) of the Central Goods and Services Tax Act, 2017, it does not permit the blocking to extend beyond the period of one year. Mr. Shah submitted that therefore, by virtue of the operation of law itself, petition may be considered having worked out because the impugned order directing

blocking of available ITC has lapsed.

6 Ms. Vyas made an attempt to deal with merits of the matter and reason as to why ITC available was blocked.

7 Rule 86A empowers the Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in electronic credit ledger has been fraudulently availed or is ineligible in as much as, for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under Section 49 or for claim of any refund of any unutilised amount. Sub-rule (3) of Rule 86A provides that such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction. The restriction was imposed on 23rd November 2022 and one year period expired on or about 23rd November 2023. Therefore, by operation of law itself, the restriction imposed has lapsed. Ordered accordingly.

8 Petition stands disposed.

(JITENDRA JAIN, J.)

(K.R. SHRIRAM, J.)