



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.4519 OF 2024

Vedanta Limited

.. Petitioner

Versus

The Union of India & Ors.

.. Respondents

**Mr.Rohan Shah, Senior Advocate a/w Kumar Visalaksh,
Ajitesh Dayal Singh, Ginita Bodani, Rahul Khurana,
Mohammed Anajwalla i/b Economic Laws Practice,
Advocates for the Petitioner.**

**Mr.Y.R. Mishra a/w Sangeeta Yadav, Advocates for
Respondent.**

**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**
DATE : JANUARY 08, 2025

P. C.

1. The above Writ Petition is filed by the Petitioner seeking a declaration that the activity of a holding company providing a corporate guarantee to its subsidiary is not in the nature of “supply” and/or “supply of service” taxable under Section 9 of the Central Goods and Services Tax Act, 2017 (for short “**the CGST Act**”). A further declaration is sought that the Respondents be restrained from collecting tax under Section 9 of the CGST Act on the activity of providing

corporate guarantees to subsidiary companies. A challenge is also laid to the impugned circular dated 27th October 2023 under which the tax is sought to be levied and collected as unconstitutional, *ultra vires* and violative of Articles 14, 19(1)(g), 246A, 265 and 300A of the Constitution of India. Since the notice dated 1st February 2024 has been issued to the Petitioner seeking certain information from the Petitioner for the period 1st July 2017 till March 2021 in relation to corporate guarantees given by the Petitioner, the said notice is also challenged.

2. The learned advocate appearing on behalf of the Respondents submitted that since the Final Audit Report [of the audit conducted] has been issued, the office of the Assistant Commissioner (Circle-VI), CGST Audit-I Commissionerate Pune is not pursuing the matter arising out of the letter dated 1st February 2024 and which is impugned in the said Writ Petition. He submitted that since the Respondents are not pursuing the matter further, nothing would survive in the above Writ Petition.

3. We record the statement made by the learned counsel, and which is made on instructions, that the Respondents are not pursuing the matter any further arising out of the letter dated 1st February 2024.

However, we find that the issue involved in the present Petition is a recurring issue. This issue is pending before the several High Courts. The Delhi High Court has in fact granted a stay that no coercive action shall be taken against the Petitioner in case a final assessment order is passed or a demand is created. The Telangana High Court has stayed the effect and operation of the circular dated 27th October 2023. Even the Punjab and Haryana High Court has stayed the effect and operation of the impugned circular 27th October 2023.

4. Considering that this is an important issue, we grant time to the Respondents to file their affidavit-in-reply to the above Writ Petition in so far as it lays a challenge to the circular dated 27th October 2023 and also to the extent that the Petitioner seeks a declaration that the activity of a holding company providing a corporate guarantee to a subsidiary is not in the nature of “supply” and/or “supply of service” taxable under Section 9 of the CGST Act. The reply shall be filed within a period of 6 weeks from today.

5. In the meanwhile and until further orders, the effect and operation of the impugned circular dated 27th October 2023, in so far as it relates to Item No.2 thereof, is hereby stayed.

6. This order will be digitally signed by the Private Secretary/
Personal Assistant of this Court. All concerned will act on production by
fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]