



Vartak

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2301 OF 2022

Essar Steel Suppliers ..Petitioner
Vs.
Union of India & Ors. ..Respondents

Mr. Abhishek Rastogi i/b. Mr. Sushant Valimbe for Petitioner.
Mr. Jitendra Mishra with Ms. Maya Majumdar for Respondents.

CORAM : G. S. KULKARNI &
JITENDRA S. JAIN, JJ.
DATE : JULY 03, 2023

P.C.:

1. Heard learned counsel for the parties.
2. This petition under Article 226 of the Constitution of India challenges an Order-in-Appeal dated 21 April, 2021 passed by the Commissioner of Central Taxes, Central Excise & Service Tax (Appeals), Raigarh. Against the said order, an appeal is provided under Section 112 of the Central Goods and Service Tax Act, 2017 to the Appellate Tribunal. However, till today, the Tribunal is not set up. The Central Board of Indirect Taxes and Customs have issued a circular dated 18 March, 2020 in respect of appeal in regard to non-constitution of Appellate Tribunal.

Para 4.2 of the said clarification reads as under :

“The appellate tribunal has not been constituted in view of the order by Madras High Court in case of Revenue Bar Assn. v. Union of India and therefore the appeal cannot be filed within three months from the date on which the order sought to be

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appealed against is communicated. In order to remove difficulty arising in giving effect to the above provision of the Act, the Government, on the recommendations of the Council, has issued the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 03.12.2019. It has been provided through the said Order that the appeal to tribunal an be made within three months (six months in case of appeals by the Government) from the date of communication of order or date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office, whichever is later.”

3. Our attention is also drawn to the decision of a Co-ordinate Bench of this Court in Writ Petition No.10883 of 2019 (*Rochem India Pvt. Ltd. vs. The Union of India & Ors.*) dated 8 February 2023. This Court on very similar issue passed following order :

“a) The period of filing the Appeal will stand extended as indicated in Clause 4.2 of the Circular dated 18 March 2020.

b) The impugned order will not be given effect until two weeks after the period prescribed for filing an appeal as under Clause 4.2 of the Circular dated 18 March 2020 is over.”

4. Respectfully, following the Co-ordinate Bench decision, we dispose of the present petition in terms of the order passed in case of *Rochem India P. Ltd.* (supra).

5. All contentions of the parties are kept open.

6. Writ petition is disposed of. No order as to costs.

[JITENDRA S JAIN, J.]

[G. S. KULKARNI, J.]

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