



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

WRIT PETITION (L) NO.38480 OF 2024
WITH
SHOW CAUSE NOTICE NO.16 OF 2024

Mishal J. Shah HUF
(Keeyan Enterprises)

.. Petitioner

Versus

State of Maharashtra & Others .. Respondents

Mr. Prasanna Namboodiri, Adv. Pratibha Namboodiri, Adv. Tejal Darekar, Adv. Rishabh Sinha, Adv. Pallavi Dabak, Adv. P.S. Patkar for the Petitioner.

Ms. Jyoti Chavan, Addl.G.P. for the Respondent Nos.1 to 3, State.

Ms. Prerna Deshbhratar, Joint Commissioner of State Tax, Respondent No.3, present in Court

Mr. Chandar Kamble, Asstt. Commissioner of State Tax, present in Court

**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**
DATE: JANUARY 7, 2025

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1. The above Writ Petition has been filed seeking the following reliefs:

Page 1 of 4
JANUARY 7, 2025

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“(a) That the Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality thereof be pleased to quash and set aside the Notice in Form GST DRC-22 bearing No. JCST/INV-A/DRC-22/D-0113/030/M/s. KEEYAN ENTERPRISES/2024-25/B-1637 Mumbai dated 04.12.2024.

(b) That the Hon'ble Court may be pleased to issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ/order/directions to Respondents to remove provisional attachment and de-freeze the Bank Account bearing no. 59209820033229 in HDFC Bank, Null Bazaar Branch, of the Petitioner.”

2. The learned Advocate appearing on behalf of the Petitioner stated that after filing of this Writ Petition, the account of the Petitioner with HDFC Bank, Null Bazar Branch, has been defrozen. In other words, the reliefs sought for in the above Writ Petition have worked themselves out. He therefore, does not press the above Petition. We note the same.

3. We also find that by Order dated 20th December 2024, this Court had noted the conduct of the GST Authorities in arresting Mr.Mishal J. Shah who is the Karta of the Petitioner HUF. Looking at the manner in which Mr.Mishal J. Shah was arrested, this Court was *prima facie* of the view that the same amounts to interference with the administration of justice and consequently, might amount to Contempt of Court. Accordingly, this Court issued a Show Cause Notice to Mr.Chandar Kamble, Assistant Commissioner of State Tax as well as Ms.Prerna Deshbhratar, Joint Commissioner of State

Tax to show cause why proceedings for Contempt should not be initiated against them.

4. In answer to this, both the officers, namely, Mr.Chandar Tipanna Kamble, Assistant Commissioner of State Tax Investigation-A, Mumbai as well as Respondent No.3, Ms.Prerna Himmatrao Deshbhratar, Joint Commissioner of State Tax Investigation-A, Mumbai have filed their Affidavits. In the Affidavits, they have unconditionally apologized to the Court and they have stated under what circumstances they proceeded to arrest Mr.Mishal J. Shah.

5. In the Affidavits, it is pointed out that Mr.Mishal J. Shah is not only the Karta of the Petitioner HUF but is also a Director of M/s.JMC Metals Private Limited and who, according to the GST Authorities has fraudulently availed of the input tax credit of approximately Rs.9.54 Crores. Mr.Mishal J. Shah was arrested because he was a Director of M/s.JMC Metals Private Limited and not because of any action to be taken against the Petitioner HUF. Despite this, both the officers, who are present in Court today, have apologized in the manner in which the arrest was conducted. After going through these two Affidavits, we accept the apology that has been tendered by the two officers and discharge the Show Cause Notice issued to them. We

would however like to caution the officers that in future they should be careful before any arrest is made and to follow the letter of the law before any such arrest memos are issued.

6. Writ Petition is accordingly disposed of.

7. No order as to costs.

8. 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.]

