Chaitanya

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

WRIT PETITION (L) NO. 16964 OF 2025

Christie's India Private Limited … Petitioner

Versus

Union of India And Ors. … Respondents

Mr. Tushar Jarwal (through Video-Conferencing) a/w Mr. Rahul Sateeja, Adv. Daliya Singh, for Petitioner.

Ms. Shruti Vyas a/w Mr. Abhishek Mishra, for Respondent No.1.

Ms. Jyoti Chavan, Addl.G.P., for Respondent Nos. 2, 3 and 4.

CORAM : M.S. Sonak &
Advait M. Sethna, JJ.

DATED : 20 September 2025

P.C.:-

1. Heard Mr. Jarwal for the Petitioner, Ms. Vyas, for the Respondent No.1 and Ms. Chavan, Addl.G.P. for the Respondent-State.

2. There is a challenge to the constitutional validity of Section 16(2)(c) of the Central Goods and Services Tax Act, 2017, and its corresponding provision in the Maharashtra Goods and Services Tax Act, 2017, on the ground that the same violates Article 14, 19(1)(g) and 300A of the Constitution.

3. The learned counsel for the Respondents points out that the Hon'ble High Courts of Kerala, Patna and Madhya Pradesh have already upheld the vires of the impugned provisions. Mr. Jarwal further submits that the Gauhati High Court, has, recently struck down this provision and to the best of his knowledge, the Revenue has not appealed the same.

4. Accordingly, we issue a Rule in this Petition. Ms Chavan and Ms Vyas waive service after Rule.

5. Since a provision of the central statute is challenged, we also issue notice to the Hon'ble Attorney General for India.

6. Issue notice to the Respondent No.5. In addition to the usual mode of service, private service/hamdast is allowed. The Petitioner must file an affidavit of service.

7. The Petitioner has also challenged the order dated 28 February 2025, made by the 4th Respondent, i.e. the Assistant Commissioner of Sales Tax at Maharashtra, raising a demand of Rs. 1 crore towards GST, and penalty and interest amounting to an additional Rs. 1 crore. Ms Chavan points out that the dues as such are not objected to, but the Petitioner's contention is that the liability to pay such dues should be that of the 5th Respondent. She, therefore, submits that the State should not be deprived of its dues based on the disputes between the Petitioner and the 5th Respondent, regarding the liability to pay the dues.

8. On the other hand, Mr. Jarwal points out that the 5th

Respondent has already paid Rs. 21 lakhs towards GST liability. He submitted that if the Petitioner were to file an Appeal against the order dated 28 February 2025, the Petitioner would have had to deposit only 10% of the demanded GST tax and upon such deposit, there could be no further recoveries until the disposal of the Appeal. He submitted that since the 5th Respondent has already paid Rs. 21 lakhs, an unconditional stay restraining recoveries pursuant to the order dated 28 February 2025 may be granted.

9. We have considered the rival contentions. At least prima facie, we are satisfied that the State should not be deprived of its dues primarily on account of disputes between the Petitioner and the 5th Respondent as to the liability for payment. At least at present, we cannot hold that the payment of Rs. 21 lakhs by the 5th Respondent discharges the entire liability towards tax. Suppose the Petitioner seriously believes that the liability is that of the 5th Respondent. In that case, the Petitioner can always initiate proceedings to recover such amount from the 5th Respondent in accordance with the law. Neither the dispute with the 5th Respondent nor the fact that the Respondent may have paid Rs. 21 lakhs would entitle the Petitioner to an unconditional stay in a matter involving the Revenue.

10. Therefore, though we have issued a Rule in this Petition, given the conflicting decisions on the subject, we are satisfied that this is not a matter where the Petitioner should

be granted any unconditional stay.

11. Accordingly, we stay recoveries pursuant to the order dated 28 February 2025, subject to the Petitioner depositing in this Court an amount of Rs. 20 lakhs within 6 weeks from the date of uploading of this order. This amount is determined having regard to the dues, which are prima facie Rs. 1 Crore, the payment made by the Fifth Respondent, and the contention about the amount usually required to deposit for restraining coercive action. Furthermore, at least 3 High Courts have already upheld the constitutional validity of the impugned provision.

12. Such a deposit must be made after giving due intimation to the learned counsel for the Respondents. If no amount is deposited and intimation given, then this stay shall stand vacated without further reference to this Court.

(Advait M. Sethna, J) (M.S. Sonak, J.)