

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 20885 of 2019****JAP MODULAR FURNITURE CONCEPTS PVT. LTD.**

Versus

STATE OF GUJARAT

Appearance:

MR UCHIT N SHETH(7336) for the Petitioner(s) No. 1,2

AGP(1) for the Respondent(s) No. 1,2,3,4,5

CORAM: HONOURABLE MR. JUSTICE J.B.PARDIWALA
and
HONOURABLE MR. JUSTICE ILESH J. VORA

Date : 19/03/2021**ORAL ORDER****(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)**

1 By this writ application under Article 226 of the Constitution of India, the writ applicants have prayed for the following reliefs:

“A. This Hon'ble Court may be pleased to issue a writ of mandamus or a writ in nature of mandamus or any other appropriate writ or order directing the respondents to forthwith activate the registration of the petitioners under the GST Acts and grant final certificate of registration to the petitioners from 1.7.2017.

B. This Hon'ble Court may be pleased to issue a writ of mandamus or a writ in nature of mandamus or any other appropriate writ or order directing the respondents to allow the petitioners to file returns and pay tax under the GST Acts from 1.7.2017;

C. This Hon'ble Court may be pleased to issue a writ of mandamus or a writ in nature of mandamus or any other appropriate writ or order directing the respondents to allow the petitioners to claim input tax credit of IGST paid on imports made during the period when the registration certificate of the petitioners was blocked;

D. This Hon'ble Court may be pleased to issue a writ of mandamus or

a writ in nature of mandamus or any other appropriate writ or order restraining the respondents from imposing any late fee or penalty under the GST Acts for non-filing / late filing of returns by the petitioners under the GST Acts because of blockage of registration certificate of the petitioners.

E. pending notice, admission and final hearing of this petition, this Hon'ble Court may be pleased to direct the learned respondents to forthwith activate the registration of the petitioners under the GST Acts and grant final certificate of registration to the petitioners from 1.7.2017;

F. Ex parte ad interim relief in terms of prayer D may kindly be granted.

G. Such further relief(s) as deemed fit in the facts and circumstances of the case may kindly be granted in the interest of justice for which act of kindness your petitioners shall forever pray.”

2 The case of the writ applicants may be summarised as under:

3 The writ applicants are engaged in the import and sale of furniture.

4 The writ applicants were registered under the Gujarat Value Added Tax Act, 2003 (hereinafter referred to as “the VAT Act”). Section 139 of the Central / Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as “the GST Act”) allowed migration of registration from earlier regime to the GST regime. Hence, on the basis of registration under the VAT Act, the writ applicants were granted the provisional registration certificate under the GST Act.

5 The Chartered Accountant of the writ applicants committed default in filing the returns under the VAT Act on account of which the registration certificate of the writ applicants under the VAT Act was cancelled by order dated 15th June 2017. Based on such cancellation, the provisional registration of the writ applicants under the GST Act was also blocked / inactivated and final registration was not granted to the

writ applicants under the GST Act.

6 The writ applicants filed an appeal under the VAT Act challenging the legality and validity of the cancellation order on 15th June 2017. The first appellate authority, by order dated 3rd April 2018, allowed the appeal and restored the registration under the VAT Act right from the date on which it was cancelled.

7 Thereafter, the writ applicants represented before the authorities on number of occasions requesting for activation of the registration certificate under the GST Act and grant of final registration certificate since the very basis for inactivation / blocking of such certificate had been removed by the first appellate authority under the VAT Act.

8 Because of inactivation of registration certificate, the writ applicants were unable to file the returns and pay tax under the GST Act nor they were able to claim the Input Tax Credit of IGST paid on the imports made during the interregnum period.

9 Since no response was received from the authorities despite number of representations, the present writ application had to come before this Court.

10 To the aforesaid, the respondents have practically no reply. All that has been stated in the affidavit-in-reply, in paras 7 and 8 respectively, is as under:

“7 It is respectfully submitted that the petitioner is having registration number under the Goods and Services Tax Act, 2017 (GST for short) in two different States that is for the State of Gujarat and for the State of Maharashtra. The GST number for the State of Gujarat is 24AADCJ7834R1ZX and the same came to be automatically cancelled due to cancellation of the VAT registration number.

8 *It is respectfully submitted that as per the status from the GST portal the petitioner herein has himself submitted form REG – 29 for the purpose of cancellation of the registration number. The date of cancellation for the same is 23.08.2017. Annexed hereto and marked as Annexure R I is a copy of the status report of the said registration number.”*

11 The averments made in the above referred paras of the reply are mutually destructive.

12 In the result, this writ application succeeds and is hereby allowed. The respondents are directed to unblock / activate the registration of the writ applicants under the GST Act and grant the final registration certificate under the GST Act with effect from 1st July 2017 at the earliest. The respondents shall permit the writ applicants to upload the returns and pay tax under the GST Act from 1st July 2017 onwards without charging any late fee for the belated filing of the returns. The respondents are also directed to allow the writ applicants to claim the Input Tax Credit in respect of the imports / purchases made during the period in which the registration under the GST Act was blocked / inactivated and no dispute of time limit under Section 16(4) of the GST Act shall be raised as the Input Tax Credit was not allowed to be claimed on account of blocking / inactivation of the registration by the respondents.

13 With the aforesaid, this writ application stands disposed of.

(J. B. PARDIWALA, J)

(ILESH J. VORA, J)

CHANDRESH