IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 5212 of 2018
With
R/SPECIAL CIVIL APPLICATION NO. 7769 of 2018

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M/S CERA SANITARYWARE LTD
Versus
UNION OF INDIA

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Appearance:
MR ANAND NAINAWATI(5970) for the PETITIONER(s) No. 1
MR NIKUNT K RAVAL(5558) for the RESPONDENT(s) No. 1
NOTICE SERVED BY DS(5) for the RESPONDENT(s) No. 2,3,4,5

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CORAM: **HONOURABLE MR.JUSTICE AKIL KURESHI**
and
HONOURABLE MR.JUSTICE B.N. KARIA

Date : 19/09/2018
ORAL ORDER
(PER : HONOURABLE MR.JUSTICE AKIL KURESHI)

1. These petitions arise in common background. We may record facts from Special Civil Application No. 5212 of 2018. Petitioner is engaged in manufacture of ceramic sinks, washbasin etc. The petitioner is also trading in such goods across India. With the introduction of Goods and Service Tax from 01.07.2017 certain structural changes in tax collection were made requiring the legislature to make transitional provision. Section 140 of the Central Goods and Service Tax Act, 2017 enabled the dealers to take credit of duties paid on the goods held by them on the date of implementation of the law. For such purpose, however, necessary declaration had to be made in the terms of Rule 117 of the CGST Rules. Sub-rule

(1) therein envisage time limit of 90 days from the appointed day for such purpose. This time limit was extended from time to time and lastly upto 27.12.2017 beyond which the Government of India would not accept any further declaration. Now Sub-Rule (1A) has been inserted in Rule 117 essentially making a provision for extension of time maximum upto 31.03.2019 for making the declaration if due to technical defects such declaration should not be made.

2. In the context of such time limit provision, challenge was made in case of Special Civil Application No. 4252 of2018 in which the petitioner had argued that no such time limit is envisaged in section 140 of the Act. Rule making authority therefore cannot insert such time limit. Vires of Sub-Rule (1) of Rule 117 of CGST Rules was challenged. By separate judgement passed today we have rejected such a challenge.

3. Case of the petitioner is that the declaration in terms of Rule 117 was filed within time but certain necessary details were not provided. The petitioner would therefore not benefited out of the insertion of Sub-Rule (1A) of Rule 117. It was in this context that the petitioner had also challenged the time limit provision contained in the Rules. Without recording separate reasons since we have already given elaborate reasons in the separate judgement, this challenge is not entertained.

4. In the result, both petitions are dismissed.

(AKIL KURESHI, J)

(B.N. KARIA, J)

JYOTI V. JANI