IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2023
(@SLP(C) NO.20072/2021)

COMMISSIONER, GST AND CENTRAL EXCISE
COMMISSIONERATE II, & ORS. APPELLANT(S)

VERSUS

M/S SWATI MENTHOL AND ALLIED
CHEMICALS LTD & ANR. RESPONDENT(S)

O R D E R

Issue notice to the respondents.

2. Shri Rajat Mittal, learned counsel for Caveator accepts notice for the respondent(s).

3. We have heard learned Additional Solicitor General appearing for the Department and learned counsel for the respondent(s).

4. With the consent of learned counsel on both sides, the matter is heard finally.

5. Leave granted.

6. The appellant Department is aggrieved by the impugned order dated 17.05.2021 by which the High Court has closed the proceedings initiated by virtue of two show cause notices dated 02.03.2010 and 06.05.2010 issued to the respondents proposing to demand the CENVAT credit availed by the respondent(s) during the period from April, 2005 to March, 2009 and further credit availed by the respondent(s) during April, 2009 to February, 2010. Pursuant to the issuance of

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the notices and on receipt of the same, the respondent(s) herein filed their replies to the show cause notices.

7. Thereafter, the matter was posted for personal hearing of the respondent(s) who were requested to appear for personal hearing before the Commissioner, Central GST Commissionerate, Chandigarh. However, the matter did not progress on several occasions on account of the respondents failure to appear before the said authority. Thereafter, by communication dated 10.10.2018, the respondents were informed that personal hearing, which was to take place had been adjourned *sine die* and the next date of hearing would be informed later. Since there was no further communication from the said Authority and three years had since passed, CWP No.9340/2021 was filed before the High Court seeking quashing of the notices issued by the Department and also the proceedings commenced thereon. The High Court has accepted the contentions of the respondent(s) and has quashed the show cause notices issued by the Appellant(s)/Department. As a result, the proceedings have also been concluded.

Learned Additional Solicitor General submitted that the abrupt conclusion of the proceedings pursuant to the impugned order has caused prejudice to the Revenue inasmuch as the proceedings pursuant to the issuance of the show cause notices and the demand made have not been adjudicated upon, whereas the respondent(s) are liable to pay to the Department in terms of the demand made in the show cause notices. He submitted that there were genuine reasons as to why the proceedings could not conclude inasmuch as a matter

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similar to the matter under consideration was the subject matter of a writ petition before the Jammu & Kashmir High Court and therefore, a decision was taken to recommence the proceedings following the decision from the High Court being received by the Department.

He further submitted that if the impugned order is to be affirmed by this Court, then the Revenue would be prejudiced inasmuch as the demands made by the Department would be stifled on account of the impugned order passed by the High Court.

Per contra, learned counsel for the respondent drew our attention to the fact that for ten long years the show cause notices remained without any adjudication and in a similar matter, this Court has, in the peculiar facts of the said case, affirmed the order of the High Court and therefore, the same may be followed in respect of the instant proceedings also.

8. By way of reply, learned Additional Solicitor General submitted that if some time is granted and an opportunity is given to the respondent(s), the proceedings would be concluded within the time frame to be fixed by this Court and therefore, appropriate orders may be made in this matter.

9. We find that the proceedings which were commenced by virtue of the two show cause notices referred to above have not been concluded although over a decade has passed. Be that as it may, we find that submission made by learned Additional Solicitor General as to concluding the proceedings within the time frame to be fixed by this Court needs to be accepted.

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10. In the circumstances, we set aside the impugned order and we remand the matter to the Commissioner of GST (adjudicating Authority) with a direction to conclude the proceedings within a period of eight weeks from 10.08.2023. Since the respondent(s) is/are represented by learned counsel, the respondent(s) is/are directed to appear before the concerned Authority on that date (10.08.2023) without expecting any separate notices to be issued by the said Authority to the respondent(s) herein.

11. It is needless to observe that the Authority which is seized of the matter shall give adequate opportunity to both sides and conclude the proceedings within a period of eight weeks from 10.08.2023.

12. All contentions on both sides are left open, to be taken up before the concerned Authority.

13. The Appeal is allowed and disposed in the aforesaid terms. No costs.

14. Pending application(s) shall stand disposed.

...J.
[B.V. NAGARATHNA]

...J.
[PRASHANT KUMAR MISHRA]

NEW DELHI
JULY 10, 2023

ITEM NO.10 COURT NO.15 SECTION IV-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 20072/2021

(Arising out of impugned final judgment and order dated 17-05-2021 in CWP No. 9340/2021 passed by the High Court of Punjab & Haryana at Chandigarh)

COMMISSIONER, GST AND CENTRAL EXCISE COMMISSIONERATE II, & ORS. Petitioner(s)

VERSUS

M/S SWATI MENTHOL AND ALLIED CHEMICALS LTD & ANR. Respondent(s)

(IA No. 158983/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 10-07-2023 These matters were called on for hearing today.

CORAM :
HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Petitioner(s) Mr. Balbir Singh, A.S.G.
Mr. Mukesh Kumar Maroria, AOR
Mr. Rupender Sinhmar, Adv.
Mr. Shlok Chandra, Adv.
Mr. Shantnu Sharma, Adv.
Mr. Naman Tandon, Adv.

For Respondent(s) Mr. Rajat Mittal, AOR
Mr. Siddharth Sharma, Adv.
Mr. Suprateek Neogi, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Issue notice to the respondents.

Shri Rajat Mittal, learned counsel for Caveator accepts notice for the respondent(s).

With the consent of learned counsel on both sides, the matter is heard finally.

Leave granted.

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The Appeal is allowed and disposed of in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(NEETU SACHDEVA)
ASTT. REGISTRAR-cum-PS

(MALEKAR NAGARAJ)
COURT MASTER (NSH)

(signed order is placed on the file)