HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No.3668/2024

Sodhani Sweets Private Limited, Having Its Registered Office At SB-108, Lal Kothi Marg, Bapu Nagar, Jaipur 302015, Through Its Director Mr. Johari Lal Sodhani S/o Late Shri Ghasi Lal Sodhani

----Petitioner

Versus

1. Joint Commissioner Circle-A, Enforcement Wing Rajasthan-I, Jaipur, Kar Bhawan, Ambedkar Circle, Jaipur - 302001.
2. Goods And Service Tax Council (GST Council), Through Its Special Secretary, Office Of The GST Council Secretariat, 5Th Floor, Tower II, Jeevan Bharti Building, Janpath Road, Connaught Place, New Delhi-110001.
3. Commissioner Of Commercial Taxes, Commercial Tax Department, Government Of Rajasthan, Kar Bhawan, Ambedkar Circle, Jaipur - 302001.
4. Union Of India, Through Secretary, Ministry Of Finance, Department Of Revenue, New Delhi.
5. State Of Rajasthan, Through The Principal Secretary, Ministry Of Finance, Secretariat, Jaipur.

----Respondents

For Petitioner(s)	:	Mr. Mohit Khandelwal, Adv. Mr. Vaibhav Jeswani, Adv. Mr. Aditya Gupta, Adv.
For Respondent(s)	:	Mr. Ajay Shukla, Adv. with Mr. Raghav Sharma, Adv. Mr. Ayush Singh, Adv. & Mr. Ajay S. Rathore, Adv. for Mr. Punit Singhvi, Adv.

HON'BLE MR. JUSTICE PANKAJ BHANDARI
HON'BLE MRS. JUSTICE SHUBHA MEHTA

Order

14/03/2024

1. The petitioner has preferred this writ petition aggrieved by order dated 29.12.2023.

2. A preliminary objection was raised by learned counsel for the respondents that the order can be challenged before First Appellate Authority and if the order stands, the petitioner has further remedy of filing appeal before the Second Appellate Authority. It is also contended that fees payable for filing an appeal before the First Appellate Authority is just Rs.3,20,000/- and it cannot be said that

rights of the petitioner are being taken away. It is also contended that the writ petition is not covered under the clauses laid down by the Apex Court in *Godrej Sara Lee Ltd. Versus Excise and Taxation Officer-cum-Assessing Authority and Others:* **2023 SCC OnLine SC 95**. Learned counsel for the respondents has placed reliance on the judgment of this High Court in the case of *Tanushree Logistics Private Limited Versus State of Rajasthan & Others:* **D.B. Civil Writ Petition No.17550/2022** and batch of writ petitions.

3. Learned counsel for the petitioner contends that *samosa* and *kachori* have been taxed @ 18%. The said order passed by the Authority is beyond its jurisdiction and against the orders passed by the GST Council.

4. We have considered the contentions.

5. Be that as it may, appropriate authority in the present case is the First Appellate Authority. We do not find it a fit case to entertain in the writ jurisdiction as whatever objection the petitioner is raising before this Court can be raised before the First Appellate Authority.

6. The writ petition is accordingly dismissed, leaving it open for the petitioner to avail alternative remedy of appeal. We further direct that the period during which this petition remained pending before this Court shall not be counted for the purpose of counting the period of limitation in filing appeal. In case an appeal is filed, the Appellate Authority is directed to decide the same expeditiously in accordance with law.

(SHUBHA MEHTA),J (PANKAJ BHANDARI),J

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