



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

WRIT PETITION (L) NO.31946 OF 2023

M/s. Playerzpot Media Pvt Ltd & Anr. ...Petitioners

Versus

Union of India & Ors. ...Respondents

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Mr. Bharat Raichandani a/w Mr. Onkar Sharma a/w Sudipta B., Mr. Prathamesh Gargate i/by Khaitan & Co. for the Petitioners.

Ms. Jyoti Chavan, Addl. GP for Respondent No.2.

Mr. Jitendra B. Mishra a/w Mr. Satyaprakash Sharma & Ms. Sangeeta Yadav for Respondent No.3.

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CORAM : G. S. KULKARNI,  
JITENDRA JAIN, J.J.

DATE : 6<sup>th</sup> DECEMBER, 2023.

PC.

1. This petition under Article 226 of the Constitution of India is filed praying for the following reliefs :

*a) issue a writ of Certiorari and/ or in the nature of Certiorari to quash the Show Cause Notice bearing DGGI F No. DGGI/MZU/I&IS 'C'/12(3) 24/2023 and bearing a CBIC DIN 202309DWW00000000D25 dated 27 September 2023 issued by Respondent No. 3; AND / OR.*

*b) issue a writ of and/ or in the nature of Certiorari thereby striking down Section 15(5) of the Central Goods and Services Tax Act, 2017 as unconstitutional and violative of Articles 246A and 366 (12) of the Constitution of India and Section 15(1) of the Central Goods and Services Tax Act, 2017; AND / OR*

*c) issue a writ of and/or in the nature of a Certiorari or in the nature of any other writ for striking down Rule 31A(3) of the Central Goods and Services Tax Rules, 2017 as ultra vires Sections 2(31), 7, 9 and 15 of the Central Goods and Services Tax Act, 2017; AND / OR*

*d) issue a writ of and/ or in the nature of a Certiorari or in the nature of any other writ for striking down provisions of the CGST Act, the CGST Rules and Notifications thereunder along with corresponding provisions of the MGST Act, the MGST Rules and Notifications thereunder, to the extent they purport to levy 'tax on betting and gambling' in exercise of legislative power under Article 246A of the COI, due to lack of legislative competence; AND / OR*

*e) issue a writ of and / or in the nature of Prohibition thereby restricting the Respondent No. 3 or its officers / sub-ordinates from taking any coercive action against the Petitioners; AND / OR*

*f) issue a writ of and / or in the nature of Prohibition thereby restricting the Respondent No. 4 and Respondent No. 5 from adjudicating the Impugned SCN pending final disposal of this writ petition; AND /OR*

*g) Ad interim order in terms of prayer (e) and ( f) above;*

*h) grant costs of and incidental to this petition;*

*i) pass such further or other order or orders be passed and direction and/or directions be given as this Hon 'ble Court may deem fit and proper.*

2. Today the prayers of the petitioner are for interim reliefs.

3. Mr. Raichandani, learned counsel for the petitioners has drawn our attention to the orders dated 23<sup>rd</sup> October 2023 passed by a Division Bench of this Court at Goa in the case of **Delta Corp Limited and Anr. vs. Union of India & Ors.**<sup>1</sup> wherein similar issues as involved in present petition had fell for consideration of the Court, although the activities of the assesseees are different. This Court considering the challenge to the provisions of the Act and Rules has 'admitted' the petitions. Insofar as the show cause notice was concerned, the Court recorded a statement on behalf of the department that the petitioners in

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1 Writ Petition No.717 of 2023

such case without prejudice to the rights and contentions as raised in the petitions, may file response to the impugned show cause notices, and that, the Adjudicating Officer would not pass any final orders on the show cause notice without leave of the Court. Such statement as made on behalf of the department came to be accepted by the Court. The petitioners were accordingly directed to respond to the show cause notice. Mr. Raichandani submits that similar order can be passed on the present proceedings.

4. Our attention is also drawn to the orders passed by the High Court of Sikkim in the case of *Delta Corp Limited and Anr. vs. Union of India & ors.*<sup>2</sup>, where the Court had directed that a status-quo be maintained on the show cause notices. Our attention is also drawn to an order passed by Division Bench of the Gujarat High Court in the case of *NXGN Sports Interactive Private Limited vs. Union of India & ors*<sup>3</sup> wherein *ad-interim* relief was granted restraining revenue from taking any further steps on the adjudication of the show cause notice while permitting the petitioners to file a response to the show cause notice.

5. In the aforesaid circumstances, we are of the opinion that we need to pass orders similar to the orders passed by this Court at Goa, in the proceedings of *Delta Corp* (supra). We accordingly pass the following order:-

2 W.P. (C) No.41 of 2023

3 Special Civil Application No.19183 of 2023 dated 3<sup>rd</sup> November 2023

ORDER

- (i) Rule.
- (ii) Issue notice to the Attorney General, returnable on 17<sup>th</sup> January, 2024, insofar as the challenge to the provisions of Section 15(5) of the CGST Act, 2017 being unconstitutional and violative of Articles 246A and 366(12) of the Constitution of India is prayed for.
- (iii) Ms. Chavan, Addl. GP waives service on behalf of the respondent No.2. Mr. Mishra, waives service on behalf of respondent No.3.
- (iv) Let the pleadings of the proceedings be completed on or before the adjourned date of hearing.
- (v) The petitioners without prejudice to its rights and contentions as urged in the present petition may file their reply to the impugned show cause notices.
- (vi) The Adjudicating Officer may proceed to hear the petitioners on the show cause notice, however, final orders on the show cause notice shall not be passed without the leave of this Court.
- (vii) Ordered accordingly.
- (viii) Liberty to the respondents to apply before the Hon'ble the Chief Justice for clubbing all the matters, to be heard by an appropriate Division Bench.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]