



R.M. AMBERKAR
(Private Secretary)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.**

WRIT PETITION NO. 3027 OF 2018

Adlabs Entertainment Limited .. Petitioner

Versus

Union of India & Ors. .. Respondents

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- Mr. Abhishek Rastogi a/w Mr. Ankit Shah, Ms. Rashmi Deshpande i/by Khaitan & Co for the Petitioner
 - Mr. S.P. Bharti for Respondent No. 5
 - Mr. Himanshu Takke, AGP for Respondent Nos. 3 and 4
 - Mr. Pradeep S. Jetly a/w Mr. J.B. Mishra for Respondent Nos. 1 & 2

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**CORAM : AKIL KURESHI &
M.S. SANKLECHA, JJ.**

DATE : DECEMBER 21, 2018.

P.C.:

1. Petitioner, a limited company, has set up a theme park and water park at Khalapur, Maharashtra by making sizable capital investment. As a part of the tourism policy of the State Government, the petitioner was offered certain incentives in the nature of entertainment tax waiver. The petitioner would point out that at the relevant time, the rate of entertainment tax was 15%. Thus, on account of heavy capital investment needed, the petitioner was granted such



incentive and as a result, the petitioner would have an advantage over other entities in the same business who did not enjoy such incentive of tax waiver.

2. Upon introduction of Goods & Services Tax ("**GST**" for short), the entertainment tax was subsumed. The GST currently prescribed is @ 18%. As a result of these changes, according to the petitioner, two things happened. First is, since the entertainment tax was abolished, the incentive offered to the petitioner no longer survived. Secondly, the petitioner would now have to pay tax @ 18% of GST at par with other entities. According to the petitioner, this made the petitioner's business totally unviable. The petitioner had borrowed funds from banks and financial institutions for making capital investment which the petitioner was unable to repay on time.

3. Learned counsel for the petitioner submitted that the petitioner was granted incentive under the state tourism policy. The petitioner was unable to recover even its capital investment because the entire tax structure changed with



the advent of GST. Under similar circumstances, the State of Rajasthan has issued notification granting partial relief to the similar industries. Learned counsel states that even the State of Uttar Pradesh is in the process of issuing similar notification. It is therefore requested that the State Government should examine this aspect and give relief to that extent possible. Learned counsel for the petitioner submitted that if the industry would go sick, besides the capital investment going waste, it will also render larger number of people directly or indirectly employed in the industry jobless. We are informed that the Maharashtra Tourism Development Corporation has also written to the Government taking up the cause of the petitioner.

4. In our opinion, the issue is required to be examined at the highest level before the Government. We request the Government i.e the Chief Secretary to constitute a High Level Committee which would besides others, comprise of Principal Secretary of Finance and the Secretary of Tourism Department. An authorized representative of the petitioner may also be given a chance of representation and if needed,



be given personal hearing by such committee. The petitioner would make a representation to the Committee through Secretary of Tourism which may be done latest by 5.1.2019.

5. The conclusions of the Committee in the form of recommendations may be placed before the Government. The same may also be placed before the Court on the next date of hearing.

6. S.O to 21st February, 2019.

[M.S. SANKLECHA, J.]

[AKIL KURESHI, J]