

**2018-TIOL-18-HC-MUM-GST****IN THE HIGH COURT OF BOMBAY****Writ Petition No. 11403 of 2016
Civil Application No. 534 of 2017
Writ Petition No. 11403 of 2016****HINDALCO INDUSTRIES LTD****Vs****THE UNION OF INDIA & ORS****S C Dharmadhikari & Prakash D Naik, JJ****Dated: March 5, 2018****Appellant Rep by:** Mr. V. Sridharan, Senior Counsel a/w Mr. Jas Sanghavi**Respondent Rep by:** Mr. Swapnil Bangur a/w Shalaka A. Gujar Karande

CX/GST – Rebate – Section 142(3) of the CGST Act, 2017 - Costs were imposed on Respondent Revenue to impress upon the Authorities that the proceedings before the High Court should not be delayed; that Public Interest suffers and that was not present to the mind of the Authorities - it is only to remind the Respondents of the duties and obligations to the public, that costs were imposed - on account of the subsequent development and particularly the Central Goods and Services Tax Act, the issue in the Petition is purely academic and it is rendered infructuous - earlier order imposing costs of Rs.25,000/- on the Respondents recalled and the amount paid be returned to Respondent – Writ Petition disposed of without costs: High Court [para 3 to 6]

Petition disposed of**JUDGEMENT**

We have heard on earlier occasion Mr. Prakash Shah and today Mr. Sridharan, the learned Senior Counsel appearing for the Petitioner and Mr. Bangur appearing for the Respondents.

2. There is an affidavit in reply filed in terms of our earlier directions. Mr. Sridharan, on instructions, states that the prayer clauses (b) and (c) of the Writ Petition need not have been inserted and/or incorporated in the Petition and by oversight and/or error they had been so inserted. On his request, leave to delete prayer clauses (b) and (c) of the Petition is granted. The amendment to be carried out on or before 12th March 2018. Mr. Sridharan submits that in the light of the affidavit in reply filed by the Respondents and particularly a statement therein, in paragraph No. 10, the issue raised in this Petition is rendered academic. Para 10 of this affidavit in reply running pages 459-460 reads as under :-

"10. As mentioned at Para 7 above Revision application filed by Petitioner pertaining to protective demand show cause notices are pending with Revision Authority. If the petitioner succeeds then amount of Rs.5,07,59,409/- included in eight Rebate orders sanctioned by Deputy Commissioner (Rebate) that is already with the Petitioner gets approval of Revision Authority and no further action will be taken by the department for recovery of said amount. However, if the Petitioner fails then the Petitioner is required to pay Rs.5,07,59,409/- to the department and claim equivalent amount as credit. But in view of Section 142(3) of CGST Act, 2017, this amount is to be paid in cash. Thus, even if Petitioner fails no action will be taken by the department for recovery of said amount in view of enactment of transitional provisions

under the CGST Act. Hence there is no gain to either the petitioner or the department in the subject proceeding and the writ petition may please be dismissed."

3. Having perused, with the assistance of both Mr. Sridharan and Mr. Bangur, we are indeed satisfied that on account of the subsequent development and particularly the Central Goods and Services Tax Act, the issue in this Petition is purely academic and it is rendered infructuous.

4. After having heard both sides and because of the fair suggestion of Mr. Sridharan, we recall our earlier order imposing costs of Rs.25,000/- on the Respondents and which has been duly complied with. It was not an order passed merely because the Court was upset with the Respondents or because of the absence of the advocates, but it is clear from the order that it was to impress upon the Authorities that the proceedings before this Court should not be delayed.

5 By delay, the larger Public Interest suffers and that was not present to the mind of the Authorities and it is only to remind them of the duties and obligations to the public, that costs were imposed. On account of the fair stand of the Petitioner and Mr. Sridharan, we direct that the amount paid of Rs.25,000/- be returned to the Respondents.

6. The Writ Petition is disposed of. No costs.

7. In view of disposal of the Writ Petition itself, nothing survives in the Civil Application and the same is also disposed of as such.

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