

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.715 OF 2023

DELTA CORP LIMITED THR ITS AUTH.

REP. ASHISH KAPADIA AND ANR.

... Petitioners

Versus

UNION OF INDIA THR THE

JOINT SECRETARY AND 8 ORS.

...Respondents

Mr Harish Salve, Senior Advocate with Mr Harish Narasappa, Senior Advocate, Mr Parag S. Rao, Mr Raghav Shankar, Mr Rajendra Barot, Mr Dhirajkumar Totala, Ms Harsha Uppal, Mr Aditya Bihani, Ms Meghana Naik, Mr Rishikesh Vazarkar, Ms Vasudha Jain and Ms Gunjan Pande, Advocates for the Petitioners.

Mr P. Faldessai, Deputy Solicitor General of India, Mr S. Karpe and Mr R. Chodankar, Central Government Standing Counsel for Respondent No.1.

Mr D. Pangam, Advocate General with Mr N. Vernekar, Additional Government Advocate for Respondent No.2.

Ms Asha Desai, Senior Standing Counsel for Respondent Nos.3 to 9.

WITH
WRIT PETITION NO.716 OF 2023

HIGHSTREET CRUISES AND

ENTERTAINMENT PRIVATE

LIMITED THR ITS AUTH.

REP. MANOJ JAIN AND ANR.

....Petitioners

UNION OF INDIA THR. THE

JOINT SECRETARY AND 8 ORS.

....Respondents

Mr Harish Salve, Senior Advocate with Mr Harish Narasappa, Senior Advocate, Mr Parag S. Rao, Mr Raghav Shankar, Mr Rajendra Barot, Mr Dhirajkumar Totala, Ms Harsha Uppal, Mr Aditya Bihani, Ms Sowmya Drago, Ms Janice Fernandes, Mr Akhil Parrikar, Ms Vasudha Jain and Ms Gunjan Pande, Advocates for the Petitioners.

Mr P. Faldessai, Deputy Solicitor General of India, Mr S. Karpe and Mr R. Chodankar, Central Government Standing Counsel for Respondent No.1.

Mr D. Pangam, Advocate General with Mr Deep Shirodkar, Additional Government Advocate for Respondent No.2.

Ms Asha Desai, Senior Standing Counsel for Respondent Nos.3 to 9.

**WITH
WRIT PETITION NO.717 OF 2023**

DELTA PLEASURE CRUISE
COMPANY PRIVATE
LIMITED THR. AUTH. REP.
MANOJ JAIN AND ANR

....Petitioners

Versus

UNION OF INDIA THR THE
JOINT SECRETARY AND 8 ORS.

....Respondents

Mr Harish Salve, Senior Advocate with Mr Harish Narasappa, Senior Advocate, Mr Parag S. Rao, Mr Raghav Shankar, Mr Rajendra Barot, Mr Dhirajkumar Totala, Ms Shambhavi P. Rao, Ms Harsha Uppal, Mr Aditya Bihani, Ms Nandini Kedilaya, Mr Ajay Menon, Ms Vasudha Jain and Ms Gunjan Pande, Advocates for the Petitioners.

Mr P. Faldessai, Deputy Solicitor General of India, Mr S. Karpe and Mr R. Chodankar, Central Government Standing Counsel for Respondent No.1.

Mr D. Pangam, Advocate General with Ms Maria Correia, Additional Government Advocate for Respondent No.2.

Ms Asha Desai, Senior Standing Counsel for Respondent Nos.3 to 9.

**CORAM: M. S. SONAK &
 BHARAT P. DESHPANDE, JJ**

DATED : 23rd OCTOBER 2023

P.C.

1. Heard Mr Harish Salve, learned Senior Advocate who appears along with Mr Harish Narasappa, learned Senior Advocate and Mr Parag Rao, learned counsel for the Petitioners.
2. Mr P. Faldessai, learned Deputy Solicitor General of India appears for Respondent No.1.
3. Mr D. Pangam, learned Advocate General appears along with Mr N. Vernekar, Mr Deep Shirodkar and Ms Maria Correia, learned Additional Government Advocates for Respondent No.2 in WP Nos. 715 of 2023, 716 of 2023 and 717 of 2023 respectively.
4. Ms Asha Desai, learned Senior Standing Counsel appears for Respondent Nos.3 to 9.
5. The challenge in these petitions is to the vires of Rule 31A of the CGST Rules, 2017. The Petitioners have also challenged the

show cause notice dated 27.09.2023, which according to the Petitioners is based mainly on Rule 31A of the CGST Rules, 2017. There is also a challenge to Section 15(5) of the CGST Act and to certain Notifications and Circulars issued under the CGST Act and Rules made thereunder.

6. Mr Salve, learned Senior Advocate apart from making his submissions in support of the petitions has placed on record an order dated 20.10.2023 made by the High Court of Sikkim admitting a petition involving a similar challenge in the case of *Delta Corp Limited and Another Vs Union of India and others in W.P. (C) No.41 of 2023*.

7. Accordingly, we issue Rule in these petitions.

8. The learned counsel for the Respondents waive service after Rule.

9. Since there is a challenge to Section 15(5) of the CGST Act, we also issue notice to the learned Attorney General.

10. Ms Desai, learned Senior Standing Counsel submits that the Petitioners without prejudice to their rights and contentions in these petitions may file response to the impugned show cause notice dated 27.09.2023. On instructions, she states that the Respondents whom she represents will not pass any final orders on

the show cause notice without leave of this Court. This statement about not passing any final orders on the impugned show cause notice is accepted and the concerned Respondents will have to abide by the same.

11. Mr Salve states that the Petitioners will file a response to the impugned show cause notice without prejudice to their rights and contentions in these petitions by 15.12.2023.

12. Mr Faldessai and Ms Desai state that the response to the Rule would be filed within six weeks from today by serving advance copies on the learned counsel for the Petitioners. Rejoinder, if any, to be filed within four weeks thereafter.

13. After the pleadings are complete, place these matters for final disposal on 05.02.2024. Place the matters high on board subject to any overnight part-heard matters.

14. All these matters are to be considered together.

BHARAT P. DESHPANDE, J

M. S. SONAK, J