IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 7296 of 2024

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M/S BLACK STONE CORPORATION PRIVATE LIMITED
Versus
STATE OF GUJARAT & ORS.

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Appearance:
MR KARANKUMAR J SUKAWALA(10263) for the Petitioner(s) No. 1
MR MUKUND KUMAR CHOUHAN(10259) for the Petitioner(s) No. 1
for the Respondent(s) No. 2,3
ADVANCE COPY SERVED TO GOVERNMENT PLEADER/PP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE BHARGAV D. KARIA**
and
HONOURABLE MR. JUSTICE NIRAL R. MEHTA

Date : 02/05/2024

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

1. By this petition under Article 227 of the Constitution of India, the petitioner has prayed for following reliefs :

> *"a) That this Hon'ble Court be pleased to issue a writ of Certiorari or any other writ, order or direction for quashing and setting aside order in Form GST DRC-07 dated 27/12/2023 (Reference No. ZD2412230884664 (Annexure-F) passed by the Assistant Commissioner of State Tax (4), (enforcement), Division-6, Vadodara, Respondent No.2 and further direction, to supply relied upon documents and to consider the Petitioners submission by verifying the documents and other evidence, and to decide the issue involved in this case in accordance with law and*
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> *b) That this Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or*

direction, ordering the Respondent No.2, by himself his subordinates, servants and agents, pending disposal of the present Petition not to recover amount imposed vide impugned order dated 27/12/2023 and stay the execution and other proceeding thereof and

c) This Hon'ble Court be pleased to issue writ of mandamus or any other appropriate writ, direction order directing the Respondent No.3 to unblock/release the input Tax Credit and

d) Pending notice, admission and final disposal of this Petition, this Hon'ble Court by way of ad interim and/or interim relief be pleased direct the respondent authorities to unblock/release the input tax credit and

e) EX-PARTY ad interim relief in terms of Prayer 18 (b) & (d) be granted and

f) For costs and

g) That this Hon'ble Court be pleased to grant such other and further relief as are deemed just and proper in the facts and the circumstances of this case."

2. It is pertinent to note that the petitioner has challenged the order in original on the ground that the respondent authority has not provided the relied upon documents and no opportunity of hearing was also provided to the petitioner as contemplated under Section 75(4) of the Goods and Service Tax Act, 2017 (for short 'the GST Act').

3. It was also submitted by learned advocate for the petitioner that the respondent No.3 has blocked the credit in Electronic Credit Ledger from being utilized by the petitioner and, therefore, the petitioner is unable to carry on the business.

4. On perusal of the impugned order in original passed in Form GST DRC-07, it emerges that the petitioner has been given adequate opportunity of hearing as stated in Para.5.1 to 5.9 of the impugned order and, therefore, the contention of the petitioner that the opportunity of hearing not given is not tenable and the petitioner is, therefore, required to be relegated to avail the alternative efficacious remedy under Section 107 of the GST Act, to challenge the impugned order before the appellate authority.

5. In view of the above, the petition is not entertained and is accordingly dismissed.

(BHARGAV D. KARIA, J)

(NIRAL R. MEHTA,J)

V.J. SATWARA