

Union Of India vs Shantanu Sanjay Hundekari on 24 January, 2025

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ITEM NO.12

COURT NO.14

SECTION

S U P R E M E C O U R T O F
R E C O R D O F P R O C E E D I N G S

I N D I A

SPECIAL LEAVE PETITION (CIVIL) Diary No.55427/2024

[Arising out of impugned final judgment and order dated 28-03-2024 in WPL No. 30198/2023, WPL No. 30199/2023, WPL No. 30200/2023 & WPL No. 30241/2023 passed by the High Court of Judicature at Bombay]

UNION OF INDIA & ORS.

Petitio

VERSUS

SHANTANU SANJAY HUNDEKARI & ANR. ETC.

Responde

FOR ADMISSION and I.R.
(IA No. 9016/2025 - CONDONATION OF DELAY IN FILING SLPs)

Date : 24-01-2025 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE R. MAHADEVAN

For Petitioner(s) :

Mr. N.Venkataraman, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Mr. V C Bharathi, Adv.
Mr. Prasanjeet Mahapatra, Adv.
Ms. Megha Karnwal, Adv.
Mr. Udai Khanna, Adv.
Mr. Shantnu Sharma, Adv.

For Respondent(s) :

Ms. Anuradha Dutt, Adv.
Mr. Tushar Jarwal, Adv.
Mr. Rahul Sateeraja, Adv.
Mr. Vikrant A Maheshwari, Adv.
Mr. Raghav Dutt, Adv.
Ms. B. Vijayalakshmi Menon, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. Heard Mr. N. Venkataraman, the learned Additional Solicitor General Date: 2025.01.24 18:19:48
IST Reason:

appearing for the Revenue and Ms. Anuradha Dutt, the learned counsel appearing for the respondents.

2. Delay condoned.

3. The High Court while allowing the Writ Petitions filed by the respondents, quashed the show cause notices issued by the Revenue seeking recovery of Rs.3731 Crore holding as under in Paras 32 and 33 respectively:-

“32. For the aforesaid reasons, it is clear from the relevant contents of the show cause notice that the basic jurisdictional requirements/ingredients, are nor attracted for issuance of the show cause notice under Section 74 of the COST Act so as to inter alia invoke Section 122(1-A) and Section 137 against the petitioner. Even otherwise, it is ill-conceivable to read and recognize into the provisions of Section 122 and Section 137, of the CGST Act any principle of vicarious liability being attracted. There could be none. Thus, Respondent no. 3 clearly lacks jurisdiction to adjudicate the show cause notice in its applicability to the petitioner. Thus qua the petitioner, the impugned show cause notice is rendered bad and illegal, deserving it to be quashed and set aside.

33. The foregoing discussion would also lead us to conclude that it is highly unconscionable and disproportionate for the concerned officer of the Revenue to demand from the petitioner an amount of Rs.3731 crores, which in fact is clearly alleged to be the liability of Maersk, as the contents of the show cause notice itself would demonstrate, The petitioner would not be incorrect in contending that the purpose of issuing the show cause notice to the petitioner who is merely an employee, was designed to threaten and pressurize the petitioner.”

4. The issue before the High Court was one relating to the interpretation of Section 122(1-A) and Section 137 of the GST Act.

5. The High Court after assigning cogent reasons took the view that the respondent – herein was merely an employee of the Company and he could not have been fastened with the liability of Rs.3731 Crore.

6. We see no good reason to interfere with the common impugned Orders passed by the High Court.

7. However, the question of law as regards the two provisions, referred to above, is kept open.

8. The Special Leave Petitions are, accordingly, dismissed.

9. Pending applications, if any, shall also stand disposed of.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(MAMTA RAWAT)
COURT MASTER (NSH)