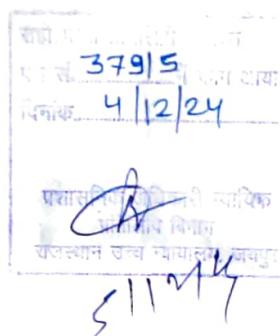


24



DISH PRASAD
OATH COMMISSIONER
RAJASTHAN HIGH COURT BENCH



C 2041 (CIVIL)

6-11-24

1

IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN AT JAIPUR BENCH, JAIPUR

52477

7/11/24

D.B. CIVIL WRIT PETITION NO. 17391 OF 2024

1. M/S **BARMINCO INDIAN UNDERGROUND MINING SERVICES LLP**, having its address at C-77, B-F, C-Scheme, Shyam Apartment, Sarojini Marg, Jaipur, through its Designated Partner, Shri Aparajit Bhattacharya, s/o Shri Arnab Bhattacharya (deceased), aged about 45 years, having his address at 603A The Magnolias, DLF Golf Links, DLF Phase 5, Gurgaon 122009, Haryana;

...PETITIONER

VERSUS

1. **DEPUTY COMMISSIONER, CIRCLE - B, ENFORCEMENT WING - II, STATE TAX, JAIPUR, RAJASTHAN** having its address at Room No. 101, New Building, Kar Bhawan, Rajasthan High Court Circle, Jaipur, Rajasthan
2. **ASSISTANT COMMISSIONER, B-II, ENFORCEMENT WING - II, STATE TAX, JAIPUR, RAJASTHAN**, having its address at Room No. 5, Ground Floor, New Building, Kar Bhawan, Ambedkar Circle, Jaipur, Rajasthan
3. **CHIEF COMMISSIONER, COMMERCIAL TAXES DEPARTMENT**, having its address at Kar Bhawan, Rajasthan High Court Circle, Jaipur, Rajasthan
4. **GOVERNMENT OF RAJASTHAN, FINANCE DEPARTMENT**, through its Additional Chief Secretary, Finance having its address at 1st Floor, Main Building, Government Secretariat, Janpath, Jaipur, Rajasthan
5. **UNION OF INDIA**, through Secretary Finance, Ministry of Finance, North Block, New Delhi - 110001

...RESPONDENTS

**D.B. CIVIL WRIT PETITION UNDER
ARTICLE 226 OF THE CONSTITUTION
OF INDIA**

AND



D. B. PRASAD
OATH COMMISSIONER
RAJASTHAN HIGH COURT BENCH



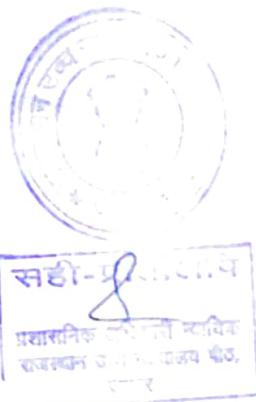
IN THE MATTER OF WRIT PETITION
UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA.

AND

IN THE MATTER OF ISSUANCE OF WRIT
OF CERTIORARI OR ANY OTHER
APPROPRIATE WRIT, ORDER OR
DIRECTION TO THE RESPONDENTS.

AND

IN THE MATTER OF SHOW CAUSE
NOTICE, DATED 31.05.2024, ISSUED
UNDER THE PROVISIONS OF
RAJASTHAN GOODS AND SERVICES
TAX ACT, 2017.



2

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D. B. Civil Writ Petition No. 17391/2024

M/s Barminco Indian Underground Mining Services LLP, Having Its Address At C-77, B-F, C-Scheme, Shyam Apartment, Sarojini Marg, Jaipur, Through Its Designated Partner, Shri Aparajit Bhattacharya, S/o Shri Arnab Bhattacharya (Deceased), Aged About 45 Years, Having His Address At 603A The Magnolias, DLF Golf Links, DLF Phase 5, Gurgaon 122009, Haryana

----Petitioner

Versus

1. Deputy Commissioner, Circle-B, Enforcement Wing-II, State Tax, Jaipur, Rajasthan Having Its Address At Room No. 101, New Building, Kar Bhawan, Rajasthan High Court Circle, Jaipur, Rajasthan
2. Assistant Commissioner, B-II, Enforcement Wing-II, State Tax, Jaipur, Rajasthan, Having Its Address At Room No. 5, Ground Floor, New Building, Kar Bhawan, Ambedkar Circle, Jaipur, Rajasthan.
3. Chief Commissioner, Commercial Taxes Department, Having Its Address At Kar Bhawan, Rajasthan High Court Circle, Jaipur, Rajasthan
4. Government of Rajasthan, Finance Department, Through Its Additional Chief Secretary, Finance Having Its Address At 1St Floor, Main Building, Government Secretariat, Janpath, Jaipur, Rajasthan.
5. Union of India, Through Secretary Finance, Ministry of Finance, North Block, New Delhi-110001

----Respondents

For Petitioner	: Mr. Shashi Mathew Advocate with Mr. Krishnaveer Singh Advocate, Mr. Abhishek Boob Advocate and Mr. Aditya Vijay Advocate.
For Respondents	: Mr. Sandeep Taneja Additional Advocate General with Mr. Nishant Sarraf Advocate. Mr. Naresh Gupta Advocate.

**HON'BLE THE CHIEF JUSTICE MR. MANINDRA MOHAN SHRIVASTAVA
HON'BLE MR. JUSTICE UMA SHANKER VYAS**

03/12/2024

Order

1. This writ petition has been filed by the petitioner against show cause notice mainly on the submission that GST is not leviable on import of services.
2. Learned counsel for the petitioner submits that in view of various circulars and order, the petitioner is not liable to payment of GST on import of services, but the authority concerned, at the pre-show cause notice stage, has not considered this aspect and has mechanically issued show cause notice.
3. Learned counsel for the State as also learned counsel for Respondent No. 5, on advance copy, would submit that the petitioner, instead of raising all the aforesaid grounds before this Court, ought to have submitted reply to show cause notice. Learned counsels would submit that after submission reply to show cause notice by the petitioner, the authority concerned shall examine each and every ground raised by the petitioner and will decide the matter in accordance with law.
4. Present is not a case where the authority concerned lacks jurisdiction. It is not a case where mala fides have been alleged. In the absence of there being a case of violation of principles of natural justice, we do not think that this Court should enter into the merits of the dispute with regard to leviability of tax at this stage. Interest of justice would be served if the petitioner is granted liberty to file reply to show cause notice taking all the grounds available to it under the law and the authority concerned

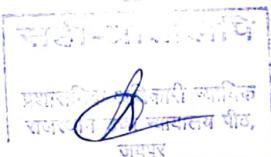
should decide the matter after due application of mind. Therefore, we are not inclined to entertain this writ petition.

5. Writ petition is dismissed with liberty to the petitioner to file reply to show cause notice.


(UMA SHANKER VYAS),J


(MANINDRA MOHAN SHRIVASTAVA),CJ

MANOJ NARWANI-UPENDRA/14



5/11/2024



०१	नम्बर प्राप्ति	37915
०२	दिनांक	४/१२/२४
०३	दिनांक	५/१२/२४

०४	दिनांक	५/१२/२४
०५	दिनांक	०५/१२/२४
०६	दिनांक	१०.००
०७	प्रतिलिपिकार	पाठी
०८		५