



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L)NO.11011 OF 2025

Nirmal Lifestyle Developers Pvt. Ltd., .. Petitioner.
Versus
The Union of India & Others .. Respondents.

Adv. Prakash Shah, Sr. Advocate with Adv. Mihir Mehta and Adv. Jas Sanghavi i/b. PDS Legal, for the Petitioner.

Adv. Subir Kumar with Adv. Niyanta Trivedi, for Respondent Nos. 1 to 4.

Ms. Jyoti Chavan, Addl.G. P. with Adv. Manish Upadhye, AGP, for Respondent Nos. 5- State.

**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**
DATE: APRIL 09, 2025

P. C.

1. The above Writ Petition is filed seeking a declaration that the development rights under a revenue sharing arrangement are not a “supply” of services, leivable to GST under Section 7 read with Section 9 of the CGST Act and the transfer and development rights as “sale of land” are beyond the scheme of taxation under the GST Laws in terms of Articles 246 and 246A of the Constitution and under Section 7 read with Section 9 and Schedule III of the CGST Act. The other relief sought in the present Writ Petition is also to

quash and set aside the Order-in-Original dated 2nd January, 2025 issued in Form DRC-07 dated 14th January, 2025 by Respondent No.3.

2. The issue in the present Writ Petition is whether the revenue sharing arrangement under a development agreement entered into by the Petitioner with L & T Asian Realty Project LLP would be a supply of service and hence exigible to GST.

3. Having heard Mr. Shah, the learned Senior Advocate appearing on behalf of the Petitioner as well as the learned Advocate appearing on behalf of Respondent Nos. 1 to 4, we find that the arguable questions are raised in the above Writ Petition. Hence, we issue **RULE**.

4. As far as interim reliefs are concerned, we find that the issue in the present case is similar, though not identical, to the issue that was raised before the Gujarat High Court wherein the Gujarat High Court considered whether an assignment of a lease would fall within Schedule II of the CGST Act. The Gujarat High Court, in fact, took a view that an assignment by the original lessee to a third party would not fall within Schedule II and hence, would not be taxable under the GST Law. The Gujarat High Court came to the conclusion that the assignment was actually a transfer of immovable property and hence not exigible to GST. In the present case, in fact it is the case of the Petitioner that there is no transfer at all. Even if one would assume that there

is a transfer, the same would be of immovable property and not taxable under the GST Law. We, therefore, find that a *prima facie* case for interim relief is made out.

5. In these circumstances, there will be interim relief in terms of prayer clause (d) which reads thus:-

“(d):- that pending the hearing and final disposal of this petition, this Hon’ble Court be pleased to direct the Respondents by themselves, their officers, subordinates, servants and agents by an interim order and injunction from acting upon or taking any further steps or proceedings in pursuance of and/or in furtherance Order-in-Original No. 35/GST/ CGST-NM/ ADC/ AKS/2024-25 dated 02.01.2025 issued in Form DRC-07 (Ref. No. ZD270125056321R) dated 14.01.2025 by Respondent No.3 (Exhibit “A”).”

6. Respondent Nos. 1 to 4 are directed to file their Affidavit in Reply within a period of two weeks from today and serve a copy of the same on the Advocate for the Petitioner. In the event, the Petitioner wants to file any Affidavit in Rejoinder, they may do so within a period of two weeks from the date of service of the Affidavit in Reply on the Advocate for the Petitioner.

7. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]

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S.R.JOSHI