

ITEM NO.6 Court 7 (Video Conferencing) SECTION III

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).6923/2021

(Arising out of impugned final judgment and order dated 05-02-2021 in SCA No.2094/2021 passed by the High Court Of Gujarat At Ahmedabad)

M/S FALCON ENTERPRISES

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(IA No.61288/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.61289/2021-EXEMPTION FROM FILING O.T. and IA No.61290/2021-APPLICATION FOR EXEMPTION FROM FILING ORIGINAL VAKALATNAMA/OTHER DOCUMENT)

Date : 01-06-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Ms. Meenakshi Arora, Sr. Adv.
Mr. Binay Kumar, Adv
Mr. Pankaj Singh, Adv
Ms. Ranjana Singh, Adv
Mr. Keshav Ranjan, AOR

For Respondent(s)

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

Being aggrieved by the order of confiscation of Goods and Demand of Tax, Fine and Penalty dated 31.8.2020 passed by the Government of Gujarat, State Tax Department, the petitioner filed a writ petition which was not entertained on the ground that the order which was passed under Section 130 of the

Central Goods and Services Tax Act, 2017 ('the CGST Act') is appealable under Section 107 of the CGST Act.

Ms. Meenakshi Arora, learned senior counsel appearing for the petitioner relies upon Rule 141 which proves that the seized goods may be released if the taxable person pays an amount equivalent to the market price of such goods or things or the amount of tax, interest and penalty that is or may become payable by the taxable person, whichever is lower.

Section 107(6) provides that an appeal shall not be entertained unless the appellant pays the amount of tax, interest, fine, fee and penalty arising out of the impugned order in full, as is admitted by him, and a sum equivalent to 10% of the remaining amount of tax in dispute arising out of the said order. She contends that the appeal under Section 107 of the CGST Act is not an efficacious remedy. Section 107 of the CGST Act provides that an appeal lies against any decision or order passed by the adjudicating authority.

The petitioner is at liberty to raise all issues before the appellate authority.

With the above observation, the special leave petition is disposed of. Pending application(s), if any, shall also stand disposed of.

(GEETA AHUJA)
COURT MASTER

(ANAND PRAKASH)
COURT MASTER