

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.342-343 OF 2020

COMMISSIONER OF CENTRAL EXCISE
AND SERVICE TAX, AHMEDABAD III

APPELLANT(S)

VERSUS

M/S GUJARAT INDUSTRIAL
DEVELOPMENT CORPORATION

RESPONDENT(S)

O R D E R

Feeling aggrieved and dissatisfied with the impugned judgment(s) and order(s) passed by the Customs, Excise & Service Tax Appellate Tribunal, Ahmedabad, ("the Tribunal", for short) passed in Appeal No.ST/436/2012, by which the Tribunal has allowed the said appeal preferred by the respondent relying upon the decision of the Bombay High Court in the case of '*Maharashtra Industrial Development Corporation*', reported in 2018 (2) TMI 1498, the appellant-Revenue has preferred the present appeals.

2. Learned counsel appearing on behalf of the appellant-Revenue has heavily relied upon the subsequent decision of this Court in the case of '*Krishi Upaj Mandi Samiti vs. Commissioner of Central Excise and Service Tax*' reported in (2022) 5 SCC 62 and, more particularly, paragraph 7 of the

said judgment. Paragraph 7 in the case of *Krishi Upaj Mandi Samiti* (supra) which has been heavily relied upon on behalf of the appellant-Revenue reads as under :

“As per the exemption circular only such activities performed by the sovereign/public authorities under the provisions of law being mandatory and statutory functions and the fee collected for performing such activities is in the nature of compulsory levy as per the provisions of the relevant statute and it is deposited into the Government treasury, no service tax is leviable on such activities. In Para 3, it is also specifically clarified that if such authority performs a service, which is not in the nature of a statutory activity and the same is undertaken for consideration, then in such cases, service tax would be leviable, if the activity undertaken falls within the ambit of a taxable service. Thus, the language used in the 2006 Circular is clear, unambiguous and is capable of determining a defined meaning.”

3. The effect of the decision of this Court in the case of *Krishi Upaj Mandi Samiti* (supra) vis-a-vis the functioning of the Gujarat Industrial Development Corporation under the Gujarat Industrial Development Act, 1962 (“the GID Act”, for short) are required to be considered by the Tribunal in light of the law laid down by this Court in the case of *Krishi Upaj Mandi Samiti* (supra).

3.1 In that view of the matter, the impugned judgment and order passed by the Tribunal in appeal

as well as the review application(s) are hereby quashed and set aside. The appeal (ST/436/2012) is ordered to be remitted back to the Tribunal. The Tribunal to take a fresh decision in light of the law laid down by this Court in the case of *Krishi Upaj Mandi Samiti* (supra).

4. The matter is remanded on the aforesaid limited aspect only and the Tribunal is directed to consider the effect of the judgment of this Court in the case of *Krishi Upaj Mandi Samiti*(supra) vis-a-vis the activities carried out by the GIDC under the GID Act.

5. The aforesaid exercise shall be completed by the Tribunal within a period of six months from the date of receipt of the present order.

6. The present appeals and pending applications stand disposed of in the aforesaid terms.

....., J.
(M.R. SHAH)

....., J.
(C.T. RAVIKUMAR)

NEW DELHI;
06 APRIL, 2023.

ITEM NO.24

COURT NO.4

SECTION XVII-A

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

Civil Appeal No(s). 342-343/2020

COMMISSIONER OF CENTRAL EXCISE
 AND SERVICE TAX, AHMEDABAD III

Appellant(s)

VERSUS

M/S GUJARAT INDUSTRIAL DEVELOPMENT CORPORATION

Respondent(s)

(IA No.595/2020-CONDONATION OF DELAY IN FILING and IA No.596/2020-
 EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA
 No.597/2020-STAY APPLICATION)

Date : 06-04-2023 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.R. SHAH
 HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Appellant(s) Mr. Sanjay Jain, A.S.G. (NP)
 Ms. B. Sunita Rao, Adv.
 Mr. Gunmaya Manu, Adv.
 Mr. Mukesh Kumar Maroria, AOR
 Mr. Sudhershnan K, Adv.
 Mr. B.K. Satija, Adv.
 Mr. Sanjay Kumar Tyagi, Adv.
 Mr. Arkaj Kumar, Adv.
 Mr. Padmesh Mishra, Adv.

For Respondent(s) Ms. Charanya Lakshmikumaran, AOR
 Ms. Apeksha Mehta, Adv.
 Ms. Neha Choudhary, Adv.
 Ms. Falguni Gupta, Adv.

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

The present appeals and pending applications
 stand disposed of in terms of the signed order.

(NEETU KHAJURIA)
 ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
 ASSISTANT REGISTRAR

(Signed order is placed on the file.)