



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

WRIT PETITION (L) NO.5754 OF 2023

Prushin Fintech Pvt. Ltd.

...Petitioner

Versus

Union of India,

Through represented by the Secretary,

Department of Revenue,

Ministry of Finance & Ors.

...Respondents

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Mr. Bharat Raichandani a/w. Mr. Prathamesh Gangate i/by M/s. UBR  
Legal for the Petitioner.

Mr. Karan Adik a/w. Mr. Saket Ketikar for Respondent Nos.1 and 3.

Mr. Himanshu Takke, AGP for Respondent (State).

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CORAM : G. S. KULKARNI,  
JITENDRA JAIN, J.J.

DATE : 26<sup>th</sup> SEPTEMBER, 2023.

PC.

. In our opinion, this appears to be a gross case in as much as more than 20 representations addressed by the Petitioner to the Assistant Commissioner, Deputy Commissioner and the Commissioner of Maharashtra State Tax have not been responded and that too on the issue that the Petitioner has already filed its GST-return and despite which on the ground of non-filing of the return, a show cause notice dated 29<sup>th</sup> November 2022 as impugned has been issued to the Petitioner.

2. On the above backdrop, the case of the Petitioner is that time and again, the Petitioner had informed the concerned officers that the returns were already filed, as also that there was an issue on the operation of the electronic portal. Even acknowledgments of filing of the returns were submitted and they are also part of the record. The Petitioner has contended that despite all this, the impugned show cause notice has been issued on the ground that the returns have not been filed.

3. We are, infact, disturbed to notice the inaction on the part of the State officers to whom several representations were addressed, who have not even bothered to respond to such repeated representations. Eventually, the Petitioner was also required to approach the Hon'ble Cabinet Ministers of the Central Government, namely the Finance Minister and the Minister for Micro, Small and Medium Enterprises.

4. Certainly, such an approach on the part of the State Officers, who are supposed to be dealing with the assesseees is not expected and when it is informed to us that the policy of the Government is of an ease of doing business. If this be so, the basic requirement in regard to the grievances being made by the assesseees through their representations need to be addressed with utmost urgency and more particularly in a case as the present, wherein, more than 20 representations being made

by the Petitioner were not addressed. This itself is quite alarming. There cannot be an approach of reticence on the part of the revenue officials as this would lead to a disharmony in the working of a well planned statutory regime, which has perhaps led to unwarranted litigation.

5. We could have easily disposed of the petition directing that the representations of the Petitioner be considered by the department, however, we cannot overlook the accountability of the officers, not only to the assessee, but also to the Court and to justify as to what made them adopt such an approach of a dead silence in not responding to a single representation of the Petitioner, much less taking an appropriate decision by considering the issues as raised by the Petitioner, that the returns were already filed. We are of the clear opinion that atleast on such issues no assessee ought to suffer and be required to litigate against the Government on issues which can be easily redressed at the departmental level.

6. We may also note that for the first time in the reply affidavit, instead of responding to the Petitioner's representation, a certain stand is being taken in regard to doubting the correctness of the acknowledgment in regard to the returns filed by the Petitioner. We would thus require the Commissioner of State Tax himself to file a clear

affidavit after verifying the portal as also the system which is made available to the Petitioner-Assessee.

7. We would also want the Commissioner of State Tax to explain as to why such an approach to generate unwarranted litigation, on the part of the Officers ought not to be deprecated and taken to the logical conclusion. Let the affidavit also address on the merits of the Petitioner's contention on the return having been filed, as also on the Petitioner's contention of there being no justification in issuing the show cause notice. Such reply affidavit be placed on record within a period of 2 weeks from today. Copy of the same be served to the Petitioner well in advance.

8. On the adjourned date of hearing, we shall hear the parties on all issues as raised for our consideration and some of which we have noted above.

9. Stand over to **10<sup>th</sup> October 2023**, High on Board.

10. In the meantime, the Respondents shall not proceed to hear the show cause notice.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]