

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

THE HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI
AND
THE HON'BLE SRI JUSTICE SANJAYA KUMAR MISHRA

WRIT PETITION (M/ S) NO. 1513 OF 2022

30th JUNE, 2022

Between:

M/s Corbett Nature Reserve Petitioner

and

Union of India and others Respondents

Counsel for the petitioner : Mr. Pavan Kumar Nath, learned counsel

Counsel for the respondents : Ms. Monika Pant, learned Standing Counsel for the Union of India

: Mr. Shobhit Saharia, learned
counsel for respondent No. 2

: Mr. Vinod Kumar Nautiyal, learned Deputy Advocate General with Mr. Mohit Maulekhi, learned Brief Holder for the State of Uttarakhand / respondent No. 3

The Court made the following:

JUDGMENT: (per Hon'ble The Chief Justice Sri Vipin Sanghi)

Issue notice to the respondents.

Ms. Monika Pant, learned Standing Counsel for the Union of India, appears and accepts notice on behalf of respondent No. 1.

Mr. Shobhit Saharia, learned counsel, appears and accepts notice on behalf of respondent No. 2.

Mr. Vinod Kumar Nautiyal, learned Deputy Advocate General with Mr. Mohit Maulekhi, learned Brief Holder, appears for the State of Uttarakhand and accepts notice on behalf of respondent No. 3.

2) The petitioner is aggrieved by the impugned ruling / order passed by the learned Appellate Authority for Advance Rulings dated 10.03.2022, as also the ruling / order of the Authority for Advance Rulings dated 28.09.2021.

3) The petitioner seeks a mandamus that the Naturopathy Centre of the petitioner be treated as eligible to get the benefit of entry No. 74 of exemption Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, classified under SAC Heading 9993.

4) The case of the petitioner is that the petitioner approached the Authority for Advance Ruling with a view to seek the ruling to the effect that the Naturopathy Centre run by the petitioner is exempt from payment of GST under the aforesaid exemption Notification No. 12/2017 dated 28.06.2017. The case of the petitioner was that the Naturopathy Centre run by it is a stand-

alone facility from the hotel business, though it is situated within the hotel premises. The grievance of the petitioner is that the Authority for Advance Ruling proceeded to return a finding that this was a case of supply of composite service and, consequently, the petitioner has been denied the benefit of the aforesaid exemption notification. Learned counsel for the petitioner submits that this was not even the stand of respondent-department before the Authority and, therefore, the petitioner was taken by surprise upon receiving the impugned order passed by the Authority for Advance Ruling. He submits that the petitioner specifically raised this ground in its appeal before the Appellate Authority. However, the Appellate Authority has not considered the said aspect in its impugned order.

5) The learned counsel for the respondents are not in a position to dispute the aforesaid submission of the petitioner. This is also evident from the reading of the impugned orders passed by the respondent Authorities.

6) In the light of the aforesaid, we quash and set aside the order dated 10.03.2022, passed by the learned

Appellate Authority for Advance Ruling, and remand the matter back to the Appellate Authority for reconsideration of the appeal preferred by the petitioner. The Appellate Authority shall grant opportunity to the petitioner to place its case before it, *inter alia*, on the aspect that its services are not covered by the definition of composite supply, and the said aspect shall be ruled upon by the Appellate Authority.

7) The petition stands disposed of, in the aforesaid terms. We make it clear that we have not examined the merits of the said plea of the petitioner, and the Appellate Authority shall be entitled to take its own independent view in the matter.

Interim Relief Application (IA No. 01 of 2022) also stands disposed of.

VIPIN SANGHI, C.J.

S.K. MISHRA, J.

Dt: 30th JUNE, 2022
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