

**IN THE HIGH COURT OF CALCUTTA**

**WP 13330 (W) of 2019**

**M/s ADANI WILMAR LTD**

**Vs**

**UNION OF INDIA AND ORS**

**Arindam Sinha, J**

**Dated: November 08, 2019**

**Appellant Rep by:** Mr Ravi Raghavan, Mr Kartikey Kulshrestha

**Respondent Rep by:** Mr Bhaskar Prosad Banerjee, Ms Amitabrata Roy

**GST** - Challenge is against levy of IGST on freight, namely Entry 10 in 10/2017-IT(R) - petitioner submits that goods were imported on CIF basis and Customs duty was accordingly paid; that a component in Customs duty is in respect of freight and there cannot, therefore, be additional levy of IGST; that the Andhra Pradesh and Gujarat High Courts, in respect of similar challenges, have passed interim orders restraining revenue from initiating coercive action against the petitioners; that Revenue chose to accept interim orders and file counter and proceed for hearing.

**Held:** Counsel for Revenue does not dispute the same, therefore, it is a fit case for issuance of similar interim order - Directed that no coercive action shall be taken against petitioners - Revenue at liberty to file affidavit - Matter to be listed on 13.12.2019: High Court

**Matter listed**

**JUDGEMENT**

**Per: Arindam Sinha:**

Mr. Raghavan, learned advocate appears on behalf of petitioner and submits, challenge is against entry 10 in Notification no. **10/2017-Integrated Tax (Rate)** and entry 9(ii) in Notification no. **8/2017-Integrated Tax (Rate)**, both dated 28th June, 2017. He submits, the challenge is against levy of Integrated Goods and Service Tax (IGST) on freight. The goods were imported on Cost, Insurance and Freight (CIF) basis. Customs duty was accordingly paid. A component in customs duty is in respect of freight. There cannot thereafter be this additional levy of IGST.

He submits further, High Courts of Andhra Pradesh and Gujarat have respectively passed interim orders dated 10th April, 2019 and 3rd July, 2019 in respect of similar challenges. The interim orders were in effect restraining revenue from initiating coercive action against the petitioners. Revenue chose to accept the interim orders, file counter and proceed for hearing. His information is that High Court of Gujarat has, upon hearing, adjourned the case for verdict.

Mr. Banerjee, learned advocate appearing on behalf of revenue does not dispute his client's position on similar challenges, of having had chosen to accept the interim order and proceed for adjudication on merits.

In view of above this is a fit case for issuance of similar interim order. No coercive action shall be taken against petitioners.

Revenue is at liberty to file affidavit, copy of which should reach petitioner within three weeks time. Petitioner will be entitled to use reply on advance copy served. Affidavits will be accepted on adjourned date.

List on 13th December, 2019.