

IN THE HIGH COURT OF GUJARAT
AT AHMEDABAD
R/Special Civil Application No. 5878 of 2019
OCTAGON COMMUNICATIONS PVT LTD
Vs
UNION OF INDIA

Harsha Devani & Bhargav D Karia, JJ

Dated: April 18, 2019

Appellant Rep. by: Uchit N Sheth (7336)
Respondent Rep. by: None

GST - Petitioner submits that there is no condition for making payment of tax as a pre-condition for filing return of Form GSTR-3B; that in the absence of any such provision, the online system of the respondents which does not allow filing of returns without payment of tax liability admitted as per such returns is contrary to legal provisions; that if the petitioner is not able to file return in Form GSTR-3B by 20th April, 2019 the petitioner would be deprived of input tax credit.

Held: Having regard to the urgency, the fact that there is no response from the respondents and by way of ad-interim relief, petitioner is permitted to file manual returns in Form GSTR-3B for the months November, 2017 onwards, which would be subject to final outcome of the petition - Matter posted to 13 June 2019: HC [para 3]

Ad interim relief granted

JUDGEMENT

Per: Harsha Devani:

- 1. Despite service of notice, there is no appearance on behalf of the respondents No.2 and 3.**
- 2. Mr. Uchit Sheth, learned advocate for the petitioner has submitted that there is no condition for making payment of tax as a pre-condition for filing return of Form GSTR-3B. It was submitted that in the absence of any such provision, the online system of the respondents which does not allow filing of returns without payment of tax liability admitted as per such returns is contrary to legal provisions. It was further submitted that if the petitioner is not able to file return in Form GSTR-3B by 20th April, 2019 the petitioner would be deprived of input tax credit.**
- 3. Having regard to the urgency of the matter and the fact that there is no response from the respondents No.2 and 3, by way of ad-interim relief, the petitioner is permitted to file manual returns in Form GSTR-3B for the**

months November, 2017 onwards, which would be subject to final outcome of the petition. Stand over to 13th June, 2019.

Direct service is permitted today.