sbw

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.49 OF 2015

Kilburn Engineering Ltd. ..Petitioner
-Versus-
The Maharashtra Sales Tax Tribunal & ors. ..Respondents

....
Mr. V. P. Patkat a/w Ms. Manjiri S. Parasnis for the Petitioner.
Mr. Avinash D. Kango for the Respondents.
....

CORAM: S.C. DHARMADHIKARI
AND
S. P. DESHMUKH, JJ.

DATE :- 13th JANUARY, 2015.

P.C.:

This Writ Petition challenges the orders passed by the Maharashtra Sales Tax Tribunal rejecting the Misc. Application Nos.277 of 2014 and 278 of 2014.

2] That Misc. Application was filed seeking to rectify the main order passed by the said Tribunal on 8th July, 2014 in VAT Appeals No.157 and 158 of 2014.

3] The Applications were more in the nature of seeking an extension of time rather than rectifying the original order. The VAT Appeals were disposed of on the condition that if the Petitioners-Original

Appellant/Applicant deposit a sum of Rs.2,42,30,878/- on or before 7th September, 2014 they would be, then, able to prosecute and proceed with their Appeal on merits.

4] The Tribunal was moved to seek extension of time by urging that a sum of Rs.45,00,000/- has been deposited but the balance amount could not be deposited for financial difficulties. The Petitioners prayed for extension of time by 4 months and to deposit the sum in equal installments.

5] After hearing Shri Patkar at some length and perusing these orders, we are of the opinion that the Writ Petition under Article 226 of the Constitution of India cannot be filed only to seek such sympathetic and equitable reliefs. We do not think that the condition imposed is either unfair or in any way unreasonable and unjust. Therefore, the rejection of the Application by the impugned order dated 2nd December, 2014 need not be interfered with.

6] Upon taking instructions from the representative of the Petitioner present in Court, Mr. Patkar states that the sum as directed in the original order of the Maharashtra Sales Tax Tribunal at Mumbai in VAT Appeals No.157 and 158 of 2014 would be deposited or payment made on or before 31st March, 2015. Purely to accommodate the Petitioners and in the light of their financial difficulties, we accept this statement of

Shri Patkar made on instructions. If the amount directed by the Tribunal is deposited within this reasonable time, the Tribunal shall consider the Appeal of the Petitioners on merits and decided it in accordance with law. Non-compliance with our direction shall visit the Petitioners with all consequences permitted in law. We make it clear that no further extensions will be granted. The Petition is disposed off in the above terms. No costs.

(S. P. DESHMUKH, J.) **(S.C. DHARMADHIKARI, J.)**

wadhwa