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

SALES TAX APPLICATION NO. 2 OF 2015

Hanil Era Textiles Ltd.	**}**	**Applicant**
versus		
The Commissioner of Sales Tax	**}**	**Respondent**

Ms. Nikita R. Badheka with Mr. Parth Badheka for the Applicant.

Mr. D. A. Nalawade-Government Pleader for the Respondent.

CORAM :- S. C. DHARMADHIKARI &
G. S. KULKARNI, JJ.

DATED :- JUNE 30, 2015

P.C. :-

Having heard both sides and perusing the order passed partly allowing the Second Appeal, the contents of the reference application and the order passed thereon on 26th November, 2009, we are of the view that the Tribunal erred in not referring the questions of law for opinion and answer of this Court. In such circumstances, we direct the Tribunal to refer the following questions of law for opinion and answer of this Court:-

> “(1) Whether on the facts and in the circumstances of the case, the Tribunal was justified in maintaining the penalty under section 36(1) at Rs.10,00,000/- specially when the quantum of misuse of declaration is not proved?

> (2) Whether on the facts and circumstances of the case the levy and confirmation of the penalty under section 36(1) is justified?”

2) The Tribunal shall forward the requisite papers and other records so as to enable this Court to answer the above questions and this shall be done within a period of 8 weeks from the date of receipt of copy of this order. The Sales Tax Application is allowed accordingly.

(G.S.KULKARNI, J.) **(S.C.DHARMADHIKARI, J.)**

J.V.Salunke,PA