

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

WRIT PETITION NO. 1898 OF 2015

M/s. Bharat Petroleum Corporation Ltd.	}	Petitioner
versus		
The State of Maharashtra	}	Respondent

Mr. Sandeep Ghaterao i/b. Mr. N. V. Tapare for
the Petitioner.

Mr. V. A. Sonpal-Special Counsel for the Respondent.

**CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.**

DATED :- OCTOBER 6, 2015

P.C. :-

This Writ Petition under Article 226 of the Constitution of India challenges the order passed by the Maharashtra Sales Tax Tribunal in Rectification Application Nos. 53 and 54 of 2012.

2) Petitioner Bharat Petroleum Corporation Limited had filed two Rectification Applications seeking to rectify the judgment delivered by the Tribunal in Reference Application Nos. 22 and 23 of 2011. However, without deciding the merits of the Rectification Applications, what the Tribunal found from the record is that the Rectification Applications have been filed under the signature of the Petitioner's

Advocate N. V. Tapre. The applications do not bear the signatures of the authorised signatory of the Petitioner Corporation. In such circumstances, the Tribunal proceeded to dismiss these Rectification Applications as not maintainable.

3) We have heard both sides and we have found that the point in this Petition is covered by a Division Bench judgment of this Court rendered on 24th March, 2015 in **Writ Petition No. 3105 of 2014** (*M/s. Lubrizol India Pvt. Ltd. vs. Commissioner of Sales Tax*).

4) We do not find any reason for the Tribunal to adopt the course and which results in complete miscarriage of justice. If there is any defect in signatures or verification, those are curable and the Tribunal should not insist on dismissing matters, but if there is any fundamental or basic defect and capable of being rectified, then, the Tribunal should give opportunity to the parties. None benefits by dismissal of applications and matters without adjudication on merits. The Tribunals and Courts of law are meant to render substantial justice and overlooking technical aspects of the case. The Tribunal should therefore adopt justice oriented approach. Even otherwise, we find that once the Advocate has been authorised to act, appear and plead so also represent the party, then, the Rectification Applications under the signatures of the Advocate should be taken on record.

5) For the aforesaid reasons, we quash and set aside the impugned order and restore the Rectification Applications to the file of the Tribunal for being decided on merits and in accordance with law as expeditiously as possible. The Petition is allowed in these terms. No costs.

6) It is cleared that we have not expressed any opinion on the rival contentions insofar as the merits of the Rectification Applications.

(B.P.COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed judgment/order.