

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

WRIT PETITION (L) NO. 3539 OF 2015

Chalet Hotels Private Limited	}	Petitioner
versus		
The State of Maharashtra	}	
and Ors.	}	Respondents

Mr. V. Sridharan - Senior Advocate with
Mr. C. B. Thakar, Mr. Rahul Thakar and
Mr. Aniket Ghosh i/b. M/s. C. B. Thakar
and Co. for the Petitioner.

Mr. B. B. Sharma - AGP for State.

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

DATED :- DECEMBER 22, 2015

P.C. :-

By this Petition under Article 226 of the Constitution of India, the Petitioner challenges an assessment order dated 30th September, 2015. One of the grounds on which this order is challenged is that in passing the same, the principles of natural justice have been violated. Apart from the fact that it is an unreasoned order, the Petitioner urges that it has not been given an opportunity to raise objections, particularly that the proceedings are barred by limitation.

2) After having heard both sides at some length, it is agreed that the assessment order impugned in this Petition be quashed and set aside. We accordingly quash and set aside the same. We restore the proceedings to the file of the Assessing Officer, who shall now pass a fresh order after hearing the Petitioner and allowing it, prior to the hearing, an opportunity to inspect the record. The authority must pass a speaking order uninfluenced by the impugned order and any observations therein. The parties agreed to appear before the Assessing Officer on 11th January, 2016 and the fresh order shall be passed within a period of four months from the date of appearance. The Petitioner will co-operate in early disposal of the proceedings by not seeking unnecessary adjournments and producing all record in its possession.

3) We clarify that the Assessing Officer shall take up the proceedings as if he is empowered to or otherwise to determine and decide the quantum of tax as on 30th September, 2015. We specifically keep open the objection of the Petitioner on time bar/limitation. The Assessing Officer, in the speaking order, must deal with the objection of the Petitioner with regard to time bar. The Writ Petition is disposed of accordingly.

(B.P.COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)