IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD

WRIT PETITION NO. 1737 OF 2010

A. R. Saudagar and Sons, through its Proprietor Abdul Rahemankhan Saudagar S/o Mohd. Usmankhan Saudagar .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri G. R. Syed, Advocate for the Petitioner.
Shri V. M. Kagne, A.G.P. for the Respondent No. 1.
Shri A. S. Bajaj, Advocate for the Respondent No. 2.

CORAM : S. V. GANGAPURWALA AND A. I. S. CHEEMA, JJ.
DATE : 17TH MARCH, 2016.

PER COURT :

. Mr. Syed, the learned counsel for the petitioner states that, the respondents have issued a demand notice asking the petitioner to pay penalty. No remedy of appeal is also provided int he amendment made to Sec. 29(8) and insertion of Clause 85(2) of the Maharashtra Value Added Tax 2002. The said amendment is unconstitutional, as no remedy of appeal is provided in the same.

2. Mr. Bajaj, the learned counsel states that, Sec. 20(8) and

85(2) have further undergone amendment. Now Legislature had deleted the word penalty and instead, now only late fees is to be charged and the fees as mentioned in the earlier section has also undergone change.

3. Section itself has undergone change and now the concept of penalty no longer exists U/Sec. 29(8) and 20(6) of the Maharashtra Value Added Tax. As the concept of penalty itself has undergone change and is substituted by late fees, the challenge in the present petition would not survive. The petitioner if occasion so arises may assail the aspect about remedy of appeal not being available in case of late fees. The writ petition accordingly is disposed of. Rule discharged. No costs.

[A. I. S. CHEEMA, J.] **[S. V. GANGAPURWALA, J.]**

bsb/March 16