**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**BENCH AT AURANGABAD**

915 WRIT PETITION NO. 2920 OF 2016
WITH WP/2921/2016

R.D.S.CONSTRUCTIONS THROUGH ITS POA HOLDER KIRAN APPASO UNDURE
VERSUS
GODAVARI MARATHWADA IRRIGATION DEVELOPMENT CORPORATION THROUGH THE EXECUTIVE DIRE
...
Advocate for Petitioner : Mr. Khandare N. B.
Advocate for Respondents : Mr. S. C. Arora

**CORAM : R. M. BORDE &**
**K. L. WADANE, JJ.**
**DATE : 5th July, 2016**

**ORDER:**

1. Heard learned counsel for the respective parties.

2. Issue raised in the instant petitions is no more *res integra* in view of the judgment delivered by the Division Bench of this Court on 06.05.2016 in Writ Petition No. 1140/2015 and other companion matters. The issue of maintainability of the petitions is tried to be raised once again by placing reliance on the judgment of the Supreme Court in the matter of **Joshi Technologies International Inc. Vs. Union of India and others**, reported in **2015 AIR(SCW) 3609**

3. A very strange argument has been advanced on

behalf of the respondents that the Division Bench, while dealing with the issue, has not dealt extensively with the objection. On perusal of the judgment it does appear that the issue raised in the petition has been considered by the Division Bench. Apart from this, once the judgment of the Division Bench holds the field, we shall have to presume that all the issues relevant for decision of the matter have been argued and have been considered by the Division Bench. There is no reason compelling this Bench to take a different view in the matter. The writ petition as such stand disposed of in terms of the decision in Writ Petition No. 1140/2015 and other companion matters. We therefore pass following order:

A] The Excise Department shall conclude their proceedings within six (6) months as undertaken by it.

B] The Respondent G. M. I. D. C. shall not retain the amounts already deducted on the ground of excise duty. They shall also not further deduct the amounts from the running bills.

C] In case Excise Department comes to the conclusion that the items of the tender work are excisable then subject to appeal or otherwise the petitioners would be liable to pay the said amount to the Excise Department.

4. The writ petitions are partly allowed, however, with no orders as to costs.

**(K. L. WADANE, J.)** **(R. M. BORDE, J. )**

JPC