IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 595 OF 2015

STATE OF GOA, THROUGH ADDITIONAL SECRETARY, FINANCE AND ANR., ... Petitioners

Versus

M/S. KAKODKAR EXIM. ... Respondent

Mr. Sagar Dhargalkar, Addl. Government Advocate for the petitioners.
Mr. R. G. Ramani, Advocate for the respondent.

Coram:- F. M. REIS, J.

Date:- 16th November, 2016

ORAL ORDER :

Heard Mr. S. Dhargalkar, learned Addl. Government Advocate appearing for the petitioners and Mr. R. G. Ramani, learned counsel appearing for the respondent.

2. The above petition takes exception to the judgment passed by the learned Tribunal dated 27.06.2014 whereby an appeal preferred by the respondent was allowed and the order dated 04.01.2011 was quashed and set aside.

3. Upon hearing the learned counsel appearing for the respective parties, the undisputed facts are that the respondent was registered on 12.09.2006 and the subject transaction took place on 11.01.2007. At the time of such transaction, it is not

disputed that the respondent had deposited VAT with the Selling Dealer. On the basis of such payment, the respondent sought credit of such amount at the time when the respondent sold the said product. It is contended by the learned Addl. Government Advocate that as the amounts were not deposited by the Selling Dealer, the question of the respondent availing such credit benefit would not arise. The fact remains that it is not disputed that in the meanwhile, the total amount was deposited and a substantial amount was paid by the Selling Dealer. The learned Tribunal upon appreciating the evidence on record has rightly come to the conclusion that as the respondent was duly registered before the subject transaction, the respondent was entitled for the credit benefit. There was a dispute raised by the petitioners that the full amount of VAT was not deposited by the Selling Dealer as according to them only a sum of Rs.1,75,509/- was deposited when a total sum of Rs.2,37,038/- was liable to be paid. But however, an affidavit has been filed by the respondent inter alia pointing out that besides the said amount of Rs.1,75,509/- the Selling Dealer has already deposited a sum of Rs.61,529/- prior to the Assessment to make up the total amount of Rs.2,37,038/-. In such circumstances, the said contention of the learned Addl. Government Advocate appearing for the petitioners no longer survives. As such, there is no case made out by the petitioners for any interference in the impugned judgment passed by the learned Tribunal in exercise of extra ordinary jurisdiction under Article

227 of the Constitution of India on the basis of the undisputed facts as stated herein above. The petition stands accordingly rejected.

F. M. REIS, J.

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