

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4000 OF 2016

Instakart Services Pvt. Ltd.

.. Petitioner

v/s.

State of Maharashtra & Ors.

.. Respondents

Mr. Rohan Shah a/w Mr. Jayesh Motwani, Ms. Divya Jeswand, Ms. Dhara Trivedi i/b Economic Laws Practice for the petitioner
Mr. Abhijit P. Kulkarni for respondent nos. 2 and 3

**CORAM : M.S. SANKLECHA &
A.K. MENON, J.J.**

DATED : 13th APRIL, 2016.

PC.

1. At the request of the Counsel, the petition itself is being disposed at the stage of admission.

2. This petition under Article 226 of the Constitution of India challenges a Communication dated 15th March, 2016 by the Joint Municipal Commissioner directing the petitioner to obtain registration under the Maharashtra Municipal Corporation Act, 1949 and pay the local body tax under the Local Body Tax Rules (said Rules). The petitioner's grievance is that the impugned Communication dated 15th March, 2016 has been issued even when its application made under

Rule 31 of the said Rules seeking determination of whether or not the petitioner could be considered to be a dealer under the said Rules and therefore exigible to tax, is still awaiting disposal.

3. Notwithstanding the above, the petitioner submits that the impugned Communication dated 15th March, 2016 directing the petitioner to obtain registration under the said Rules does not in any manner address the petitioner's contention that they are outside the province of the local body tax regime as is evident from its Determination of Disputed Question (DDQ) application under Rule 31 of the said Rules.

4. It is an undisputed position before us that the Communication dated 15th March, 2016 could have only been issued after the pending DDQ application has been disposed of adverse to the petitioner.

5. In the above view, the impugned communication dated 15th March, 2016 (being Exh.L) to the petition is premature and without jurisdiction. Therefore, quashed.

6. The respondent no.3 would decide the DDQ application pending

before it as expeditiously as possible taking into account all the submissions made by the petitioner before him in the context of the prevailing law.

7. Needless to state that the DDQ application would be decided by the Authority on its own merits in accordance with law uninfluenced by any observations made herein. It is made clear that the respondents will not act further upon its order under Rule 31 of the said Rules for a period of two weeks from the date of communication of the same to the petitioner.

8. The Petition is disposed of in above terms. No order as to costs.

(A.K. MENON, J.)

(M.S. SANKLECHA, J.)