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

SALES TAX APPLICATION NO.6 OF 2016
IN
REFERENCE APPLICATION NO.75 OF 2015

The Additional Commissioner of Sales Tax,
(VAT-III), Maharashtra State, Mumbai .... Applicant
V/s.
Dhariwal Industries Ltd., Pune .... Respondent

Mr. V.A. Sonpal, Special Counsel, for the Applicant.

None for the Respondent.

CORAM : S.C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

DATE : 26TH APRIL, 2016.

P.C. :

1. None present for the Respondent, though duly served. Affidavit of service has already been filed on record.

2. Having heard Mr. Sonpal, learned counsel for the Applicant, we find that the Tribunal's order in the Second Appeal raises questions of law. The Tribunal, therefore, is directed to forward the following questions of law for opinion and answer by this Court.

(i) Whether on the facts and in the circumstances of the case and on face of the record, was the Tribunal justified in interpreting the Finance Bill No.17 of 2001, wherein the impugned product was submitted in the First

Schedule of ADE Act and thereby holding that sales tax is not leviable on the sale of Pan masala containing tobacco for the period from 1.04.2001 to 30.04.2001 even though the State legislature intended to levy sales tax on Pan Masala containing tobacco for the period 1.04.2001 to 30.04.2001 vide Schedule Entry C-II-13 ?

(ii) Whether on the facts and in the circumstances of the case and on face of the record, was the Tribunal justified in holding that sales tax on Pan Masala containing tobacco, for the period from 1.4.2001 to 30.04.2001 is not leviable though the levy is enumerated under Schedule Entry C-II-13 ?

(iii) Whether on the facts and in the circumstances of the case and on face of the record, was the Tribunal justified in deleting the interest u/s. 36(3)(b) of the BST Act levied in consequence to the deletion of sales tax, which was constitutionally leviable on the sale of Pan Masala containing tobacco as innumerate under Schedule Entry C-II-13 for the period from 1.4.2001 to 30.04.2001 ?

3. We need not assign any detailed reasons. From a perusal of the orders passed in, both, the Second Appeal and the Reference Application, we have arrived at the above conclusion. The Tribunal shall now forward the statement of case and related papers within eight weeks from the date of receipt of a copy of this order.

4. Application is disposed of in the above terms.

[DR. SHALINI PHANSALKAR-JOSHI, J.]   [S.C. DHARMADHIKARI, J.]