IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
MAHARASHTRA VALUE ADDED TAX APPEAL NO.28 OF 2016
IN
VAT APPEAL NO.60 OF 2014

M/s. Furnace Foundry Equipment Company .... Appellant
Vs.
The State of Maharashtra .... Respondent

Mr. Ishaan Patkar i/by M/s. TJS Legal for the Appellant.
Mr. B.B. Sharma, AGP, for the Respondent.

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

DATE : AUGUST 02, 2016

P.C:

1. The appellant before us is a registered dealer under the Central Sales Tax Act, 1956. It has sold certain goods claiming to be an inter-state sale to an entity in the State of West Bengal. The appellant claims to have issued notices to the entity in West Bengal to pay the outstanding amount and issue the requisite 'C' Form. These notices are dated 29-2-2012 and 23-10-2012.

2. The period of assessment in this case is 1-4-2008 to 31-3-2009 and the order was passed on 19-6-2013. A total demand of Rs.98,74,388/- was raised on the appellant. It is claimed that this entire demand and the consequential interest arose on account of non-submission of 'C' Form.

3. Aggrieved and dissatisfied with this Assessment Order (Annexure-B), an appeal was preferred before the First Appellate Authority, namely, the Joint Commissioner of Sales Tax, Appeal-I, Mumbai. That appeal was dismissed on 14-11-2013 (Annexure-C). Thereafter, the Maharashtra Sales Tax Tribunal was approached in further appeal and which Second Appeal is also dismissed by the impugned order dated 21-10-2015. It is submitted by Mr. Patkar that in all these the appellant cannot be blamed. It is the entity in West Bengal which has failed to discharge its obligation. That entity is admittedly in difficulties. It has approached the Board under the Sick Industrial Companies (Special Provisions) Act, 1985 with a reference seeking its rehabilitation. The proceedings before that

Board are pending. Till date there is no finality to the same. In the circumstances, the appellant submits that the period during which this obligation was not discharged by the legal entity in West Bengal should have been condoned. In fact, the appellant have taken great efforts and now have approached the Calcutta High Court in a writ petition.

4. It is in these circumstances that he would submit that the appeal raises a substantial question of law.

5. After having perused the memo of appeal and all the annexures thereto, so also Section 8 [sub-sections (4) & (5)] of the Central Sales Tax Act, 1956 and the Central Sales Tax Rules [Rule 12(7)], we find that the Tribunal was right in the view that it has taken. There was no material either before the Assessing Authority or the First Appellate Authority and the Tribunal which would enable it to exercise the powers which are invoked. The law and particularly Rule 12(7) with its proviso and the substantive provisions require submission of this Form and it is not disputed. Once that Form was not produced, then

all consequences in law follow. Those have followed and neither the impugned order can be termed as cryptic or unreasoned nor does it raise any substantial question of law. We do not find any merit in this appeal. It is dismissed.

(DR. SHALINI PHANSALKAR-JOSHI, J.) (S.C. DHARMADHIKARI, J.)