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

SALES TAX APPLICATION NO. 9 OF 2016
WITH
SALES TAX APPLICATION NO. 10 OF 2016
WITH
SALES TAX APPLICATION NO. 11 OF 2016
WITH
SALES TAX APPLICATIO NO. 12 OF 2016
WITH
SALES TAX APPLICATION NO. 15 OF 2016
WITH
SALES TAX APPLICATION NO. 16 OF 2016
WITH
SALES TAX APPLICATION NO. 17 OF 2016

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| The Additional | } | |
| Commissioner of Sales Tax | } | Applicant |
| versus | | |
| Adani Enterprises Ltd. | } | Respondent |

Mr. V. A. Sonpal – Special Counsel for the applicant.

Mr. Vikram Nankani – Senior Advocate with Mr. Vishal Agrawal, Mr. P. K. Shetty and Mr. Nikhil Rungta i/b. Mr. Prabhakar K. Shetty for the respondent.

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

DATED :- August 9, 2016

P.C. :-

Having heard both sides and perusing the order of the tribunal so also some of the legal provisions and the judgment of the Hon'ble Supreme Court of India in the case of *Indian Tourism Development Corporation Limited vs. Assistant Commissioner of*

*Commercial Taxes and Anr.*[1], we are of the view that the order of the tribunal raises questions of law.

2) The tribunal should transmit the records, namely, the statement of the case and the following questions of law for opinion and answer by this court:-

> (i) Whether on the facts and in the circumstances of the case, the tribunal is justified in law and allowing the claim of high seas sale of goods, which are in un-ascertained stage till the clearance from customs as sale in course of import by transfer of document of title to the goods within the meaning of section 5(2) of Central Sales Tax Act, 1956 read with section 75 of the Bombay Sales Tax Act, 1959 and hence not liable to tax under the BST Act, 1959?
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> (ii) Whether on the facts and in the circumstances of the case, the tribunal is justified in law in holding that the provisions of the Sales of Goods Act, 1930, particularly section 18 of the said Act is not applicable to the transaction in dispute?

3) Let the tribunal comply with this order within a period of eight weeks from the receipt of an authenticated copy thereof. The tribunal shall transmit the entire records and original proceedings.

4) List on 4th October, 2016 for direction so that this court can fix an early date for hearing. All applications seeking reference are disposed off.

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

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1 **(2012) 3 SCC 204**