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

MAHARASHTRA VALUE ADDED TAX APPEAL NO. 10 OF 2016

The Addl. Commissioner of Sales Tax	} }	**Appellant**
versus		
M/s. Axis Ad-Print Media(I) Ltd.	} }	**Respondent**

Mr. B. B. Sharma – AGP with Mr.Umashankar Upadhyay - AGP for respondent State.

None for the respondents.

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

DATED :- JULY 19, 2016

P.C. :-

1) By this appeal, the Additional Commissioner of Sales Tax seeks quashing and setting aside of the order passed by the Maharashtra Sales Tax Tribunal, Mumbai dated 16th November, 2015. Copy of this order is at Annexure 'C' to the memo of appeal.

2) It is contended on behalf of the appellant that this appeal raises substantial questions of law. Mr. Sharma would submit that the questions of law at pages 3 and 4 of the paper book are substantial questions of law.

3) Mr. Sharma would submit that the tribunal failed to appreciate that the consideration sought to be taxed was in respect of a transaction of sale of printed stationary between the respondent dealer and the buyers of the stationary and not the consideration received from printing advertisements. Mr.Sharma submits that the tribunal erroneously concluded that the later is a distinct transaction. It should have been held to be interconnected and completely dependent on the earlier transaction of sale of printed stationary.

4) We are unable to agree with Mr. Sharma for more than one reason. The tribunal noted that the respondent dealer is manufacturer of printing stationary. It has several contracts and *inter alia* with Indian Railway, Maharashta State Electricity Board etc. for supply of printed stationary. That is the subject matter of the contract. While printing the stationary, if any space is blank or vacant is available, in that space, the manufacturer was allowed to print advertisement of any of the organisations. He was free to charge any amount for the same, but the advertisement needs to be approved by the purchaser of the stationary. Therefore, the appellant entered into contract for printing such advertisements on the space which was available or blank. It is in these circumstances, the argument of the dealer

was that both contracts are distinct. The other is only for the purpose of printing material. It is purely promotional in nature. That should not be taken into account for computation of the sale price.

5) It is this argument which has been accepted by the tribunal. We do not think that any larger question or controversy arises, simply because, on facts, the tribunal found that the Department could not establish that the transaction of printing of the advertisement in the open portion has any connection with the primary transaction of sale of stationary. It is in these circumstances and when there were independent contracts, one with stationery printers and another with advertiser that the Revenue was in error in bringing that amount to tax. The reasons assigned by the tribunal from para 9 onwards should he viewed in the backdrop of the factual controversy. Once that is properly appreciated and the tribunal has applied correct principles, then, we do not think that the appeal raises any substantial question of law. The view taken by the tribunal is a possible and plausible one. There is no perversity either. The appeal is devoid of merit and it is dismissed.

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