IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SALES TAX APPLICATION NO.11 OF 2012
IN
REFERENCE APPLICATION NO.45 OF 2011

The Addl. Commissioner of Sales Tax, VAT-II, Mumbai .... Applicant
Vs.
M/s. MTNL Limited .... Respondent

Mr. B.B. Sharma, AGP, for the Applicant-State.
Mr. Subhash Surte with Mr. P.V. Surte for the Respondent.

CORAM: S.C. DHARMADHIKARI &
G.S. KULKARNI, JJ.

DATE : APRIL 05, 2016

P.C:

1. We have heard Mr. Sharma, appearing on behalf of the State. We have also perused the order passed in the reference application and the substantive appeal.

2. While allowing the Second Appeal of the respondent-dealer, the Tribunal has relied upon a Judgment of this Court in *Sales Tax Reference Nos.19 of 2003* ***(The Commissioner of Sales Tax, Maharashtra State, Mumbai Vs. M/s. Lucas India***

Services Ltd.*)** and 10 of 2006 ***(M/s. Agarwal Chemicals Vs. The Commissioner of Sales Tax, Maharashtra State, Mumbai), decided on 12-8-2010. Following that Judgment, the Tribunal has held that the earlier remand order was dated 31-12-2003, it was communicated to the Assessing Authority on 11-2-2004, the proceedings were required to be concluded within three years, but the order of re-assessment has been passed on 24-10-2008. Thus, the period taken is beyond the stipulated 36 months. That is how, by relying upon the Judgment of this Court and the language of Section 33(4A) of the Bombay Sales Tax Act, 1959, the Second Appeal of the respondent was allowed and the order passed by the Assessing Authority and confirmed in First Appeal was set aside. We do not see any question of law arising from such an approach of the Tribunal. The legal issue has been settled by this Court in its Judgment, which is followed and applied. Thus, we cannot entertain this application. It is dismissed accordingly.

(G.S. KULKARNI, J.) (S.C. DHARMADHIKARI, J.)