IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SALES TAX APPLICATION NO.13 OF 2016
IN
REFERENCE APPLICATION NO.22 OF 2015
IN
SECOND APPEAL NO.5 OF 2010

Indian Oil Corporation Limited,
Bandra (East), Mumbai. …. Applicant
V/s.
The Commissioner of Sales Tax,
Maharashtra State, Mazgaon, Mumbai. …. Respondent

Mr. Prakash V. Surte, a/w. Mr. Subhash Surte, for the Applicant.

Mr. V.A. Sonpal, Special Counsel, for the Respondent-State.

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

DATE : 26TH JULY, 2016.

P.C. :

1. After having heard both sides and perusing the order passed by the Tribunal, we are of the opinion that the present application raises substantial questions of law. It is admitted on the following substantial questions of law :-

(i) Whether on the facts and in the circumstances of the case, the Tribunal was justified in directing the appellate authority to verify 'D' Forms from the original copies available with the appellant for allowing the claim in accordance with Section 8(a) of the Central Sales Tax Act, 1956 ?

(ii) Whether 'C' Forms worth Rs.238,03,04,153/- are to be allowed after considering defective 'C' Forms in the manner suggested by the Tribunal, when duty of the applicant is to produce declarations in Form 'C' in order to claim concessional rate of tax at 4% under Section 8(1) of the Central Sales Tax Act, 1956 ?

(iii) Whether the Tribunal is justified in remanding the case back to the appellate authority for the fourth time when the matter pertains to production ofe vidence for sales effected in the year 1996-97 in the year 2014-15 after 18 years ?

(iv) Whether the Tribunal was justified in directing the first appellate authority to disallow 33% of the total claim in respect of amount covered by 'C' Forms ?

2. Mr. Sonpal, Special Counsel, waives service of notice on behalf of the Respondent-State.

3. With the consent of both sides, we dispose of this application finally with a direction to the Tribunal to forward the above four questions of law for opinion and answer by this Court. The Tribunal to act on this order and

direction and do the needful within a period of eight weeks from the date of receipt of a copy of this order; meaning thereby, the case for opinion and all related papers be forwarded to this Court.

4. The application is disposed of.

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