IN THE HIGH COURT OF JUDICATURE AT BOMBAY NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1612 OF 2016

Union Bank of India, Dhantoli, Nagpur

-vs-

State of Maharashtra, thr.its Secretary, Ministry of Finance & Revenue and others

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Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders.

Mr. S.D.Ingole, counsel for the petitioner.
Mr. Ambarish Joshi, AGP for the respondent Nos.1 to 3.
Mr. R.R.Vyas, counsel for the respondent Nos.4 to 9.

CORAM : SMT. VASANTI A NAIK & MRS. SWAPNA JOSHI, JJ.

DATE : 29.11.2016.

By this writ petition, the petitioner-Union Bank of India challenges the action on the part of the Sales Tax Department of attachment and sale of the secured assets of the petitioner-Bank for recovery of sales tax dues outstanding against the respondent No.4.

According to the petitioner, though the respondent Nos.5 to 9 are the guarantors to the loan advanced by the petitioner-Bank and the properties of the respondent Nos.5 to 9 are the secured assets in the hands of the petitioner-Bank, the Sales Tax Authorities have sought to attach and sell the properties of the respondent Nos.5 to 9 for recovery of the sales tax dues that are payable by the respondent No.4. The learned counsel for the petitioner states that the issue involved in this case was also involved in *Writ Petition No.6061 of 2015 (Punjab National Bank v. State of Maharashtra and others)* and this court has, by the judgment dated 26/09/2016, quashed a similar action of the Sales Tax Department after holding that the Sales Tax Department was not entitled to auction the secured assets for recovery of the sales tax dues that were not liable to be paid by the concerned respondents whose properties were sought to be auctioned. It is stated that since the facts involved in the decided case and the present case are identical, a similar order would be passed, on parity.

Shri Ambarish Joshi, the learned Assistant Government Pleader appearing for the Sales Tax Department, does not dispute the statements made by the learned counsel for the petitioner. The learned Assistant Government Pleader fairly admits that the issue involved in this case stands answered in favour of the petitioner by the judgment dated 26/09/2016 in *Writ Petition No.6061 of 2015*.

On a reading of the writ petition and the judgment dated 26/09/2016 in *Writ Petition No.6061 of 2015*, we allow this writ petition for the reasons recorded in the judgment dated 26/09/2016. The impugned auction notice is quashed and set aside, insofar as it relates to the properties of the respondent Nos.5 to 9. The said properties should be released by the Sales Tax Authorities from attachment. Order accordingly. No costs.

JUDGE **JUDGE**

KHUNTE