IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

207 WRIT PETITION NO. 1933 OF 2009

VODAFONE EASSAR CELLULAR LTD
VERSUS
THE STATE OF MAH AND ORS
...
Advocate for Petitioner : Mr. Sachin S.Deshmukh
AGP for Respondents State: Mr. P. S. Patil
Advocate for Respondents 2 and 3 : Mr. V. P. Latange

CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.

DATE : 23rd January, 2017

ORDER:

1. Mr. Deshmukh the learned counsel submits that bill of demand were issued to the petitioner in respect of the taxes on towers from 26.10.2006 to 2009. The same was issued in the year 2008. According to the learned counsel retrospective levy of taxes is not permissible. For the said purpose the learned counsel relies on the judgment of the Division Bench of this Court in case of **Satish Dattatray Shivalkar Vs. Pimpri Chinchwad Municipal Corporation and another, reported in AIR 2002 Bombay 244.**

2. Mr. Latange, the learned counsel for respondents 2 and 3 submits that in view of the amendment incorporated in the Statute, the Corporation now can recover the taxes prior to six years. According

to the learned counsel, the petitioner is duty bound to pay the taxes. There is no dispute with regard to the quantum of tax assessed.

3. Under the impugned demand notice dated 8th July, 2008, the tax for the years from 2006 to 2009 is assessed and demanded. This Court, under its interim order dated 3rd April, 2009 had directed the petitioner to deposit the tax payable for the financial year 2008-2009 as demanded by the Corporation. The statement is made that the tax for the said financial year 2008-2009 has been deposited by the petitioner and thereafter the seal has been removed. The tax for the year 2008-2009 would be for the current year as per the demand notice. Now the only question would remain for the tax till the year 2007-08 which is calculated at Rs.94,422/-. In case of **Satish Dattatray Shivalkar** referred to supra, the Division Bench of this Court, relying on the earlier Full Bench judgment, has observed that property tax being tax for official year must be levied only during official year. Retrospective demand by amendment or alteration of assessment is not justified.

4. The amended provision which is sought to be

relied by the learned counsel for the respondents is introduced in the year 2011 and the instant demand notice is of the year 2008. Considering the judgment in the case of **Satish Dattatray Shivalkar** supra, the bill of demand for the years 2006-2007, 2007-2008 cannot be sustained. The impugned bill of demand as such is quashed and set aside to the extent of demand for the years 2006-2007, 2007-2008. The amount that is paid for the financial year 2008-2009 pursuant to the interim orders of this Court shall be considered to be valid demand by the Corporation.

5. Rule is accordingly made absolute. No costs.

(K. L. WADANE, J.) **(S. V. GANGAPURWALA, J.)**

JPC