IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10632 OF 2017

Bhikubhai Thakurbhai Rathod, Partner,
Jay Jalaram Construction Co. (Petroleum Division) ...Petitioner
Versus
The Commissioner (VAT)
Dadra & Nagar Haveli,Silvassa, & Anr. ...Respondents

Ms. Nikita Badheka a/w Ms. Lata Nagal i/b Mr. Parth Badheka for the Petitioner

Mr. Shrishailya Sadashiv Deshmukh for the Respondent Nos. 1 & 2

CORAM : S. C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.
TUESDAY, 19th DECEMBER, 2017

***P.C.* :**

1 This petition under Article 226 of the Constitution of India challenges the orders passed by the Assessing Officer as also the Appellate Authority dated 1st August, 2017.

2 Ms. Badheka appearing for the petitioner would submit that it is amply demonstrated in the grounds of the petition as to how grave and serious prejudice is caused because the Appellate Authority, in a hasty

manner, purported to dispose of the appeal of the petitioner against the order of assessment.

3 The Appellate Authority passed an order for three assessment years 2013-2014, 2014-2015 and 2015-2016. The Commissioner for Value Added Tax (`VAT' for short) (Appeals), Dadra and Nagar Haveli, thus confirmed the demand raised and computed by the Assessing Officer. Resultantly, the Assessing Officer is now pressurizing the petitioner to subject itself to meet a unreasonable demand, although the tax liability with interest is secured.

4 Upon such a petition and with the specific ground of violation of principles of natural justice, resulting in serious prejudice, we called upon Mr. Deshmukh, who accepts notice and waives service on behalf of respondents, to take instructions as to whether the first respondent will hear the petitioner again.

5 However, there are no instructions to make a statement as above. Rather the respondents support the impugned orders. There is no

denial of the averments and allegations in paras 35 to 37 of the petition. Thus, there is gross violation of the principles of natural justice. The Authority has not afforded any opportunity of hearing to the petitioner on merits of its appeal.

6 We quash and set-aside the earlier order dated 1st August, 2017 and direct that the petitioner's appeal shall stand restored to the file of the Appellate Authority for hearing afresh, on merits and in accordance with law. The Appellate Authority shall pass a reasoned order, after hearing the petitioner, uninfluenced by any earlier orders or observations therein. All contentions insofar as merits of the appeal, are kept open.

7 Ms. Badheka states that since the tax liability with interest is secured, the respondent shall issue the `C' form.

8 On instructions, Mr. Deshmukh states that if an application is made for issuance of `C' form, pending the disposal of the appeal, the Authority will decide that application also in accordance with law and if the

same permits, the `C' form would be issued, subject to the outcome of the appeal.

9 Once we have ensured that the petitioner gets a fair and reasonable opportunity of being heard on this appeal, nothing survives in this writ petition. The same is disposed of.

SMT. BHARATI H. DANGRE, J. ***S.C. DHARMADHIKARI, J.***