IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SALES TAX REFERENCE NO.24 OF 2009
IN
REFERENCE APPLICATION NO.16 OF 2003

The Commissioner of Sales Tax,
Maharashtra State, Mumbai .... Applicant
Vs.
M/s. B. Vijaykumar & Co. .... Respondent

Mr. Dushyant Kumar, AGP, for the Applicant-State.
Ms Nikita Badheka for the Respondent.

CORAM: S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.

DATE : MARCH 21, 2017

P.C:

1. The Tribunal has referred the following question of law for answer and opinion of this Court:-

> "Whether the tender of an import licenses called REP *licenses/Exim Scrips by the holder thereof after discontinuance of Import Export Policy since 1.3.1992 to the branches of the state Bank of India designated for the purpose at the instance of Reserve Bank of India for forwarding to the offices of the Joint Chief Controller of Imports & Exports on certain amount of*

> *premium proportionate to balance of C.I.F. Value constitute a sale of goods within the meaning and for the purpose of Bombay Sales Tax and whether the amount of premium is exigible to sales tax?*"

2. This question arose out of the Tribunal's order which was passed in an appeal. That appeal was directed against the order of the First Appellate Authority. The Tribunal has referred that question arising out of its order dated 31-12-2002.

3. However, when the reference was called out, it is fairly conceded that similar issue was dealt with by the Hon'ble Supreme Court of India in Civil Appeal No.1798 of 2005 (**Commercial Tax Officer & Ors. Vs. State Bank of India & Anr.**), decided on 8-11-2016. The question of law has been answered. It has been answered in favour of the dealer, namely, the respondent before us. It has been answered against the Revenue. In these circumstances, this reference is also answered accordingly, and is disposed of.

(B.P. COLABAWALLA, J.) (S.C. DHARMADHIKARI, J.)