

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

WRIT PETITION NO. 1221 OF 2017

NSDL e-Governance Infrastructure Ltd. .. Petitioner

v/s.

Union of India & Ors. .. Respondents

Mr. Vikram Nankani, Senior Counsel a/w Mr. Mahesh Raichandani
i/b UBR Legal for the petitioner

Ms. Jyoti Chavan, AGP for the respondents

**CORAM : S.V. GANGAPURWALA &
G.S. KULKARNI, J.J.**

DATED : 20th JUNE, 2017

PC.

1. The learned Senior Counsel for the petitioner submits that the assessment order is without assigning any reason and also flouting the principles of natural justice. The learned Senior Counsel submits that even an opportunity of hearing was not given to the petitioner.

2. The learned Counsel for the respondent submits that the Notice was issued to the petitioner. The petitioner has an alternative remedy by filing an appeal.

3. The learned Senior Counsel for the petitioner further submits that in a high handed manner, the notice of attachment was issued to the petitioner. Before the assessment order is passed, the petitioner has received the notice, which is reproduced as under :-

*“Form 301
(See rule 21(1))*

*Notice under Sub-section (2), (3), (3A) or (4) of Section 23 of the
Maharashtra Value Added Tax Act, 2002*

*To,
M/s. NSDL e-Governance Infrastructure Ltd.,
1st Floor, Times Tower, Kamala Mill Compound,
Senapati Bapat Marg, Lower Parel,
Mumbai – 400 013.*

*Reference No.STO(C-847)/BA-IV /B 588 Mumbai, Dated
10/11/2016*

<i>R.C. No. Under M.V.A.T. Act, 2002</i>	<i>27930996451V</i>
<i>R.C. No. under C.S.T. Act, 1956</i>	<i>27930996451C</i>

**Whereas I desire to ensure that in the return furnished by you in respect of the period from 01/04/2015 to 31/03/2016 turnover of sales and purchases are properly admitted, deduction are correctly claimed, tax has been calculated at the proper rates, set off has been correctly claimed and the due tax in respect of the said period has been admitted to be payable and has been paid is correct.*

**Whereas being a registered dealer, you have not furnished by the prescribed date return or returns in respect of the period from 01/04/2015 to 31/03/2016.*

**Whereas being liable to pay tax under the Maharashtra Value Added Tax Act, 2002 in respect of the period from you have failed to apply for registration under Section 16 of the said Act.*

You are hereby directed to attend at above address (place) at 11 A.M. (time) on (date) 30/11/2016 and

**(1) to produce or cause to be produced any evidence on which you rely in support of the said return or returns and at the same time to produce or cause to be produced the following documents and accounts.*

And to furnish or cause to be furnished the following information

ALL BOOKS OF ACCOUNT

**(2) To show cause as to why you should not be assessed under sub-section (3) of section 23 of the said Act.*

**(2A) To show cause as to why you should not be assessed under sub-section (3A) of section 23 of the said Act.*

**(3) To show cause as to why you should not be assessed under sub-section (4) of section 23 of the said Act.*

•You are also required to show cause as to why interest under Section 30 of the said Act in respect of the period from 01/04/2015 to 31/03/2016 should not be imposed on you.

**You are also required to show cause as to why penalty under sub-section (8) of section 29 of the said Act in respect of the period from 01/04/2015 to 31/03/2016 should not be imposed on you.”*

4. After, the Notice is issued, the petitioner produced only the books of account before the Authority. The Authority, upon consideration of the books of accounts, has passed the assessment order. A perusal of the Notice shows that different compliances were sought for. Pursuant to the said notice even, the Officer of the petitioner has attended with the books of account before the Authority and after considering the same, the assessment order is passed. Apart from the books of account, no further clarification seems to have been submitted by the petitioner.

5. It cannot be said that the assessment order is without following the principles of natural justice.

6. In the light of the above, we are not inclined to entertain the present writ petition to the extent of assessment order.

7. So far as the notice of attachment is concerned, it appears that the same has been issued immediately after the assessment order is passed. Considering the fact that we are relegating the petitioner to avail an alternative remedy, the respondent shall keep the said notice of attachment in abeyance, till the Appellate Authority decides the interim application that may be filed by the petitioner or appeal, whichever is earlier. The petitioner shall file the appeal without four weeks.

8. With this observation, the Writ Petition is disposed of. No costs.

(G.S. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)