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

WRIT PETITION NO. 135 OF 2017

M/s. Vighneshwar Aircondioning Pvt. Ltd. .. Petitioner
v/s.

Principal Commissioner, Service Tax-III
Mumbia & Ors. .. Respondents

Mr. Preshit Surshe a/w Ms. Deepali Kamble and Ms. Maithili Iyer Ghosh for the petitioner
Ms. P.S. Cardozo a/w Ms. Ruju Thakker for the respondents

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

DATED : 20th JUNE, 2017

P.C.

1. The petitioner assails the show-cause notice. The learned Counsel for the petitioner submits that the show-cause notice on the face of it, is based on incorrect facts. According to the learned Counsel, the taxable liability would only be on the services provided and not on the gross income. Even, the reply received under the Right to Information Act shows that the petitioner has paid the Service Tax for the year 2010-11. The learned Counsel further submits that the show-cause notice is issued in a manner that the

Authority has drawn a conclusion. The learned Counsel submits that the said show-cause notice can be assailed in writ jurisdiction of this Court.

3. We have also heard the learned Counsel for the respondent.

4. This Court would be slow to exercise its jurisdiction under Article 226 of the Constitution of India in the matter, assailing the show-cause. It is not the case of the petitioner that the Authority does not have jurisdiction to issue the show-cause notice. The grievance of the petitioner is based on the factual matrix. The petitioner has an opportunity to file reply to the show-cause notice and raise all possible contentions available to the petitioner. The Authority is bound to consider the reply filed by the petitioner and objections raised by the petitioner.

5. In the light of the above, we are not inclined to entertain the petition. The writ petition as such is dismissed. However, with no order as to costs.

6. As the time to file the reply has expired and the fact that present petition was pending, we grant two weeks time to the petitioner to file reply to the impugned show-cause notice. On receipt of the reply, the Authority shall adjudicate upon the show-cause notice expeditiously. Needless to state that all contentions of the respective parties are kept open.

(G.S. KULKARNI, J.) **(S.V. GANGAPURWALA, J.)**