IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4138 OF 2018

B.U. Bhandari Motors Pvt. Ltd. .. Petitioner

v/s.

1. The Deputy Commissioner of Income Tax, Circle – 2(4), Pune
2. The Union of India .. Respondents

WITH
WRIT PETITION NO. 4172 OF 2018

B.U. Bhandari Autolines Pvt. Ltd. .. Petitioner

v/s.

1. The Deputy Commissioner of Income Tax, Circle – 2(4), Pune
2. The Union of India .. Respondents

Mr. Mihir Naniwadekar i/b Rohan Deshpande for the petitioner
Mr. Sham Walve for the respondents

CORAM : M.S. SANKLECHA &
SANDEEP K. SHINDE, J.J.

DATED : 6th APRIL, 2018.

P.C.

1. At the request of the Counsel, both the petitions are taken up for final disposal.

2. These two petitions challenge two identical Notices dated 26th March, 2018 issued to the two petitioners (belonging to the same group) under Section 226(3)(x) of the Income Tax Act, 1961 (the Act). The impugned notices dated 26th March, 2017 call upon the two petitioners to support the statements made on oath under Section 226(3) of the Act to the effect that no amount is due to a party (its creditors), who is in default of his dues to the Revenue and also to show cause as to why the petitioner should not be treated as an assessee in default. The impugned notices give only two days time to the petitioners to respond, failing which coercive proceedings against the petitioners was threatened.

3. The petitioner's principal grievance is that the impugned notices are in the face of binding decisions of the Supreme Court and in any event, the petitioner should not be declared to be an assessee in default in the absence of the Assessing Officer first coming to the conclusion that the statement made on oath by the petitioner does not merit acceptance.

4. We note that the impugned notices issued to the two petitioners only seeks to examine the basis of the statements made on oath and

dependent upon that, to show cause why the petitioners should not be proceeded against as though the tax was due from it. Thus, at this stage the impugned notices do not warrant any interference. It would be appropriate for the petitioners to respond to the show-cause notices dated 26th March, 2018 and make all contentions available to them to impress upon the Deputy Commissioner of Income Tax – respondent no.1 that the impugned notices need to be dropped. Therefore, we decline to entertain the petitions at this stage.

5. However, as the period to respond to the impugned notices was only 2 days from the date of receipt, we deem it appropriate to extend the time for the petitioners to reply to the impugned notices dated 26th March, 2018 issued by respondent no.1 by a period of 15 days from today. The respondent no.1 would consider the petitioners' response to the show-cause notices dated 26th March, 2018 and dispose of the same in accordance with law after following the principles of natural justice.

6. Needless to state that the respondents would not adopt any coercive proceedings against the two petitioners till such time as the two impugned notices are disposed of in accordance with law and for a

further period of two weeks from the date of communication of its orders to the two petitioners.

7. Both the petitions are disposed of in the above terms. No order as to costs.

(SANDEEP K. SHINDE, J.) **(M.S. SANKLECHA, J.)**