

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 6645 OF 2018

Innowave IT Infrastructure Ltd.

... Petitioner

Vs

1 The Union of India & Ors.

... Respondents

Mr. Prakash Shah with Mr. Abhimeet Sharma i/b Vox Law, Advocates & Solicitors, for the Petitioner.

Mr. Pradeep S. Jetly with Mr. Jitendra B. Mishra for the Respondent-Union.

Mr. Khorzan Irani i/b Ashok Mehta for the Respondent No.1.

**CORAM : S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.**

MONDAY, 09TH JULY, 2018

P.C. :

1 We have heard both sides. We have perused the order of the Settlement Commission impugned in this petition to the extent impugned. We have also perused the other annexures.

2 On such a petition we had, on 25th June, 2018, directed that if the total service tax liability computed by the Revenue is

what is demanded and there is a further sum unpaid and the interest component thereon, then, we expected the petitioners to make an appropriate statement. That is to secure the entire demand. It is on that basis that a *bona fide* and legitimate application can be made to the Settlement Commission to settle the dispute. There is no warrant for this Court to indulge in any guess work or speculate as to how the sum has been computed for that is a sum also mentioned in the application before the Settlement Commission. That is a position from which the petitioner cannot now detract or get away.

3 In the circumstances, in the event the amount which is unpaid under whatever component is deposited without prejudice to the rights and contentions of both sides before the Settlement Commission within a period of eight (8) weeks from today, the impugned order to stand quashed and set aside and thereafter the Settlement Commission shall proceed from the stage the law requires it to proceed and render its decision on the application preferred by the petitioner.

4 In the event no compliance is made with this condition imposed by us, the order under challenge to remain uninterfered with and thereafter there will be no obligation on the Settlement Commission to proceed. In that event, the proceedings before the Settlement Commission shall be taken to have come to an end.

5 However, if there is a compliance reported, we clarify that our order and direction shall not prejudice the rights and contentions of both sides. The Writ Petition is disposed of in these terms.

SMT. BHARATI H. DANGRE, J.

S.C. DHARMADHIKARI, J.