Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3795 OF 2017

M/s. North Star Ice Equipment Co. India (P) Ltd (NSIE) ...**Petitioner**

Versus

The State of Maharashtra & Ors. ...**Respondents**

Mr. Ratan Samel, for the Petitioner.

Ms. Shruti Vyas, 'B' Panel Counsel, for the Respondent-State.

CORAM : M.S. SANKLECHA & RIYAZ I. CHAGLA, JJ.

DATE : 5 October 2018

ORDER :

1. This Petition under Article 226 of the Constitution of India challenges the notices dated 16th December 2013 (Exh.C),

19th June 2015 (Exh.F) and 12th August 2016 (Exh.K) to the Petition. The aforesaid impugned notices attached the Petitioner's bank accounts and factories.

2. It is the case of the Respondents that the impugned attachments have taken place in respect of non payment of sales tax for the financial year 1993-94 and 1998-99. It is the case of the Petitioner that when the attachment notices were issued, the Respondent was aware that the Petitioner's Appeal before the first Appellate Authority relating to the assessment year 1993-94 which were earlier dismissed had been restored and is still awaiting disposal. Thus, it is submitted that the attachment is without jurisdiction. So far as the dues relating to the financial year 1998-99 is concerned, the assessment order has been issued. Shri. Samel on instructions states that the amounts payable for the assessment year 1998-99 would be paid by the Petitioner to the Revenue within a period of one month from today.

3. This statement is accepted. Therefore, the attachment now continues only in respect of dues of financial year 1993-94.

4. In the above facts, as the Appeal before the first Appellate Authority for the assessment year 1993-94 is pending, it is agreed between the parties that the Appeal before the first Appellate Authority would be heard by the Appellate Authority on 15th October 2018 at 11.30 a.m. at which time the Petitioner would appear to make out the case in support of the Appeal.

5. Ms. Vyas, the learned AGP, on instructions states that the Appellate Authority would decide the Appeal for the assessment year 1993-94 within a period of six weeks from conclusion of the hearing granted to the Petitioner.

6. It is agreed between the parties that till such time, an order is passed by the Appellate Authority, the attachment of the Petitioner's bank account and property by the impugned

notices dated 16th December 2013, 19th June 2015 and 12th August 2016 will continue. Needless to state that in case the Appeal for financial year 1993-94 is decided in favour of the Petitioner, the impugned attachment notices would stand vacated.

7. Accordingly, the Petition is disposed of in the above terms as agreed to between the parties.

[RIYAZ I. CHAGLA J.] **[M.S. SANKLECHA, J.]**