IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (L) NO.33964 OF 2018

M/s Arkay Fabsteel Systems Private Limited ... Petitioner

V/s.

State of Maharashtra and ors. ... Respondents

Mr.Sandeep Marne for the Petitioner.
Ms.Shruti Vyas, “B” Panel counsel for the Respondent/State.

CORAM : AKIL KURESHI AND
M.S.SANKLECHA, JJ.
DATE : DECEMBER 04, 2018.

P.C.:-

1. Heard learned counsel for the Petitioner and learned AGP Miss Vyas for the Respondent.

2. Petitioner has been served with a show cause notice dated 15th November, 2018 why prosecution under which provisions of the Central Sales Tax Act, 1956 read with the Maharashtra Value Added Tax Act, 2002 should not be initiated against the Petitioner. The Petitioner is required to remain present before the

Deputy Commissioner of Sales Tax, Pune on 4^{th} December, 2018 i.e. today.

3. Counsel for the Petitioner submitted that the alleged default in payment of tax relates to certain C-Forms which the Petitioner could not produce before the authorities on account of two reasons. Firstly, at the relevant time the Petitioner was in the process of migrating from a partnership firm to a company and this led to some of the C-Forms being issued in the name of the partnership firm and rest in the company. The second and important substantial reason cited by the Petitioner before us was that the C-Forms supplied by the Andhra Pradesh Government were misplaced by the Petitioner. The Petitioner applied for re-issuance of C-Forms. Part of the C-Forms have been re-issued. For the rest, the Petitioner has been informed by the Andhra Pradesh Government that because of certain technical glitches such C-Forms cannot be issued immediately. However, the Government is in touch with technical team.

4. In this respect, the counsel, therefore, submitted that the

action of initiation of prosecution is not warranted. In any case, if some breathing time is granted, the Petitioner would be able to resolve the issue.

5. At this stage, since only a show cause notice has been issued and no final decision whether to initiate prosecution or not has been taken, we are not inclined to interfere. However, since it prima facie appears that the entire issue may be resolved if the Petitioner is able to produce all the C-Forms, we request the Deputy Commissioner of Sales Tax, Pune not to pass any final order on the impugned show cause notice for a period of four weeks from today. It would be open for the Petitioner to file a further representation latest by two weeks from today. This further representation, however, would not permit the Petitioner to insist for a fresh personal hearing. Though this may depend on the discretion of the authority.

6. With these observations, the Petition is disposed of.

(M.S.SANKLECHA,J.) **(AKIL KURESHI,J.)**