

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

WRIT PETITION {L} NO.545 OF 2018

Sea Kunal Corporation Private Limited
& Another

.... Petitioners

Vs.

The State of Maharashtra & Others

.... Respondents

Dr. Milind Sathe, Senior Counsel with Mr. Soura
Ghosh & Ms Deeksha Jani i/by Hariani & Co. for
the Petitioners.

Mr. Ashutosh Kumbhakoni, Advocate General, with
Ms Geeta Shastri, Addl GP, for the Respondents.

CORAM: S.C. DHARMADHIKARI &
PRAKASH D. NAIK, JJ.

DATE : MAY 04, 2018

P.C:

1. By this petition under Article 226 of the Constitution
of India, the petitioners seek the following reliefs:-

“(a) that this Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, direction or order in exercise of its power under Article 226 of the Constitution of India directing the Respondents to forthwith cancel and withdraw (i) Impugned Recovery Notice dated 7 October

2016 (ii) impugned Demand Notice dated 14 November 2017 issued by Respondent No.2, (ii) impugned Recovery Notice dated 4 December 2017 issued by Respondent No.3;

(d) that this Hon'ble Court be pleased to direct the Respondent No.2 to immediately refund Rs.6,24,05,090/- to the Petitioner, i.e. (i) Rs.5,24,05,090/- paid by the Petitioner to Respondent No.2 pursuant to Impugned Recovery Notice dated 7 October 2017, (ii) Rs.1,00,00,000/- paid by the Petitioner pursuant to Impugned Demand Notice dated 14 November 2017 and Recovery Notice dated 4 December 2017;"

2. After this petition was argued for some time and our attention was invited to a Division Bench Judgment which was pronounced yesterday (3-5-2018) in **Writ Petition {L} No.122 of 2018 {Hindustan Unilever Limited & Anr. Vs. The State of Maharashtra & Ors.}** and connected matters, it is conceded that some of the factual aspects of the present case will have to be looked into afresh.

3. We inquired from the learned Advocate General who was present in Court and Ms Shastri as to who will address the factual aspects and particularly highlighted in the petition. It was firstly stated that there is a revision application preferred by the petitioners, which is pending. Later on, however, the learned

Advocate General made a statement that the impugned recovery notice and the other communications mentioned in prayer clause (a) of the petition would stand withdrawn and the Collector, Mumbai City will hear the petitioners once again and pass a fresh order. The petitioners can raise all the factual issues, particularly those highlighted in the writ petition and equally the legal aspects which are kept open in terms of the Division Bench Judgment as well, before the Collector and District Magistrate, Mumbai. The Collector will give advance intimation of the date of hearing on which date the petitioners or their legal representatives can remain present and canvass oral submissions. Based on the oral submissions and the documents placed before the Collector, he will pass a fresh order, assigning reasons for his conclusions. He shall pass such order uninfluenced by his earlier conclusions.

4. The Collector shall pass fresh order in terms of our directions within a period of eight weeks from the date of appearance of the petitioners and in the event that order is adverse to the petitioners, then the same shall not be enforced

and executed for a period of two weeks from its communication to the petitioners.

5. The writ petition is disposed of by clarifying that as far as this Court, it has not expressed any opinion on the factual aspects of the matter.

(PRAKASH D. NAIK, J.)

(S.C. DHARMADHIKARI, J.)