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

WRIT PETITION {L} NO.2093 OF 2018

Trimax IT Infrastructure and Services Ltd. .... Petitioner
Vs.
State of Maharashtra & Others .... Respondents

Ms Nikita R. Badheka with Mr. Parth R. Badheka for the Petitioner.
Ms S.D. Vyas, “B” Panel Counsel, for the Respondent-State.

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

DATE : JULY 10, 2018

P.C:

1. The petitioner has an alternate and equally efficacious remedy of filing an appeal against the impugned Assessment Order. Ordinarily, in writ jurisdiction, we should not interfere in Assessment Orders only on the ground that the assessment is without jurisdiction or that the Order of Assessment suffers from errors of both fact and law. In multiple appellate remedies, all such grounds can be raised and merely

because sub-section (6A) {to Section 26 of the Maharashtra Value Added Tax Act, 2002} is introduced on the statute book while conferring power of appeal by itself and without anything more would not mean that there is a curtailment of the right or that right of appeal has become illusory. We do not see how such arguments can be entertained at all. All that Ms Badheka would argue is that the Amended provision requires the party-Appellant in this case to secure 10% of the revenue as a condition precedent to the entertaining of the appeal. This condition is onerous and excessive. There is no merit in the contention. Such conditions do not defeat, frustrate or render the right of appeal illusory. Such conditions have no tendency to curtail the right and deposit of even full amount as a prerequisite for entertaining an appeal has been upheld by the Hon'ble Supreme Court {see: AIR 1992 SC 2279, Shyam Kishore and others v/s. Municipal Corporation of Delhi and others}.

2. In the circumstances, the writ petition is dismissed on the ground that the petitioner has alternate and equally efficacious remedy to challenge the impugned Assessment

Order.

3. If the appeal is filed within a period of 8 weeks from today, the same shall not be dismissed on the ground of limitation. If it is filed thereafter, the petitioner would have to satisfy the Appellate Authority that it was prevented by sufficient cause from bringing the appeal earlier.

(SMT. BHARATI H. DANGRE, J.) (S.C. DHARMADHIKARI, J.)

Suresh Jagdish Sajnawat Digitally signed by Suresh Jagdish Sajnawat Date: 2018.07.18 13:54:39 +0530