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

WRIT PETITION NO. 472 OF 2018

Maruti Steels (India)
Through its Proprietor Mr. R.P. Patel .. Petitioner

v/s.
The State of Maharashtra & Ors. ..Respondents

Mr. Deepak Bapat a/w Ms. Sonali Bapat for the petitioner
Ms. Jyoti Chavan, AGP for the respondent State

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

DATED : 4th OCTOBER, 2018.

P.C.

1. This petition under Article 226 of the Constitution of India challenges the impugned order / communication dated 30th May, 2016 passed by the Assistant Commissioner of Sales Tax under the Maharashtra Value Added Tax Act, 2002 (MVAT Act). The impugned order / communication dated 30th May, 2016 has rejected the petitioner's refund application relating to the period 2008-09 as time barred under the provisions of MVAT Act.

2. At the very outset we enquired of Mr. Bapat, learned Counsel appearing in support of the petition whether there is an alternative

remedy of an appeal to an Appellate Authority under the MVAT Act from the communication / order dated 30th May, 2016. Mr. Bapat, pointed out that there is a provision of an appeal under Section 26 of the MVAT Act but according to him, the aforesaid provision would not apply as this communication is not in the nature of an appealable order. The grievance of the petitioner is that the refund which is due to him is being unfairly rejected. Therefore, in these circumstances the petitioner has moved this Court in its extra ordinary jurisdiction for relief.

3. On perusing the communication dated 30th May, 2016 we are of the view that the same is an appealable order which has rejected the petitioner's refund claim on account of being time barred. The petitioner's contention that the rejection on the aforesaid count of time-bar is not justified in the facts of this case, is an issue which could be best adjudicated before the Appellate Authority under the MVAT Act.

4. In these circumstances we are not inclined to exercise our extraordinary jurisdiction and entertain this petition.

5. However, the petitioner is at liberty to file an appeal from the

impugned order / communication dated 30th May, 2016 passed by the Assistant Commissioner of Sales Tax under Section 26 of the MVAT Act to the first Appellate Authority along with application for condonation of delay in filing an appeal from the order dated 30th May, 2016. The application for condonation of delay shall be considered by the Appellate Authority on its own merits keeping in view the decision of the Supreme Court in ***M.P. Steel Corporation Vs. Commissioner of Central Excise, 319 ELT 373*** wherein it has been held that principles of Section 14 of the Limitation Act, 1962 would be applicable even in respect of the appeals filed from the quasi judicial orders passed under different statutes such as MVAT Act. In case, the application for condonation of delay is allowed, the first appellate Authority is directed to complete the proceedings as expeditiously as possible and preferably within a period of 12 weeks from the time the application for condonation of delay is allowed.

6. The petition is disposed of in the above terms. No order as to costs.

(RIYAZ I. CHAGLA, J.) **(M.S. SANKLECHA, J.)**