

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NOS. 378 and 379 of 2019

WRIT PETITION NO.378 OF 2019

M/s. Mohit Ispat Ltd.,
a Company incorporated under the
Companies Act, 1956 and having
its office at Kundaim Industrial
Estate, Kundaim- Goa and represented herein
by its Director Mr. Achintya Mittal. ... Petitioner

Versus

1. STATE OF GOA,
through its Chief Secretary,
having office at Secretariat,
Porvorim, Goa.
2. ASST. COMMISSIONER OF COMMERCIAL
TAXES,
Government of Goa,
Vikrikar Bhavan, MG Road,
Panaji- Goa- 403 001.
3. COMMERCIAL TAX OFFICER,
Government of Goa, Vikrikar Bhavan,
MG road,
Panaji – Goa – 403 001. ... Respondents

with

WRIT PETITION NO.379 OF 2019

M/s. West Coast Ingots Pvt. Ltd.,
a Company incorporated under the
Companies Act, 1956 and having
its office at Kundaim Industrial
Estate, Kundaim- Goa and represented herein
by its Director Mr. Achintya Mittal. ... Petitioner

Versus

1. STATE OF GOA,
through its Chief Secretary,
having office at Secretariat,
Porvorim, Goa.
2. ASST. COMMISSIONER OF COMMERCIAL
TAXES,
Government of Goa,
Vikrikar Bhavan, MG Road,
Panaji- Goa- 403 001.
3. COMMERCIAL TAX OFFICER,
Government of Goa, Vikrikar Bhavan,
MG road,
Panaji – Goa – 403 001. ... Respondents

Mr. Y.V. Nadkarni and Mr. Sanket Kamat, Advocates for the
petitioners.

Mr. D.J. Pangam, Advocate General with Mr. Deep Shirodkar, Additional Government Advocate for the respondents.

Coram:- M. S. SONAK &

NUTAN D. SARDESSAI, JJ.

Date:- 17th September, 2019

ORAL JUDGMENT : (per M.S. Sonak, J.)

Heard the learned Counsel for the parties.

2. The learned counsel for the parties agree that the issue involved in the present petitions will have to abide by the decision of this Court in Writ Petition No. 380 of 2019.

3. Therefore, for the reasons set out in the judgment and order disposing Writ Petition No.380 of 2019, we make the Rule absolute in both these petitions as well.

4. Accordingly in Writ Petition No.378 of 2019 we set aside the orders dated 5th February, 2018 and 12th December, 2018 made by the First Appellate Authority and the Tribunal respectively. We restore the first appeal of the petitioner before the First Appellate Authority and direct the First Appellate Authority to dispose of the First Appeal on its own merits and in accordance with law as expeditiously as possible.

5. In Writ Petition No.379 of 2019, we set aside the order dated 26th February, 2018 and 12th December, 2018 made by the First Appellate Authority and the Tribunal respectively. We restore the petitioner's appeal before the First Appellate Authority and direct the First Appellate Authority to dispose of such appeal in accordance with law and on its own merits as expeditiously as possible.

6. In both these petitions, we clarify that merely because the petitioner's appeal is pending before the First Appellate Authority, the same should not operate as restraint upon the respondents to recover of the tax or penalties in terms of the orders impugned before the First Appellate Authority.

7. The Rule in both these petitions is disposed of in the aforesaid terms.

8. All concerned to act on the basis of an authenticated copy of this order.

NUTAN D. SARDESSAI, J.

M. S. SONAK, J.