IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION NO. 68 OF 2019
IN
TAX APPEAL NO. 30 OF 2016

GOA SHIPYARD LTD. REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR, CMDE BHARAT BHUSHAN NAGPAL., ... Applicant

Versus

THE ASSISTANT COMMISIONER OF INCOME TAX, CIRCLE-2, MARGAO AND ANR., ... Respondents

Mr. Chaithanya K.K and Mr. Shailesh Redkar, Advocates for the Applicant.

Ms. T. Ferreira, holding for Ms. Amira Abdul Razaq, Standing Counsel for the Respondents.

Coram:- R. D. DHANUKA & PRITHVIRAJ K. CHAVAN, JJ.

Date:- 27th March 2019

P.C.:

By this Civil Application, the Applicant/Assessee seeks a stay of the recovery of demand pursuant to the Order dated 10.12.2018 during the pendency of Tax Appeal No. 30/2016.

2. By an Order dated 19.09.2016 passed by this Court, the Tax Appeal No. 30/2016 has been admitted on various substantial questions of law, formulated in the said order. It is the

case of the Applicant that the Assessing Officer has wrongly disallowed the TDS credit to the full extent, erroneously. The Tax Appeal against the order passed by the I.T.A.T. is already admitted and is pending before this Court.

3. It is submitted by the learned Counsel for the Applicant that an amount of more than Rs. 6 crores of the Applicant is already lying with the Revenue. The Respondent has raised a fresh demand of Rs. 2,18,54,040/- with the Order dated 10.12.2018, in furtherance of the earlier demand. It is submitted by the learned Counsel that even if the Tax Appeal filed by the Applicant is dismissed by this Court, the liability of the Applicant would be at most in the sum of Rs. 2 crores in all, and even in that event, the Applicant would be entitled to a refund of the substantial amount from the revenue.

4. Learned Counsel for the Revenue states that she has been instructed to make a statement before this Court that if this Court proposes to grant any stay of the recovery of demand, the same shall be on condition of the Applicant depositing 50% of the demand notice. Learned Counsel for the Revenue did not make any other submission before this Court as to why in the facts and circumstances of this case, the Applicant shall not be granted stay without depositing any further amount.

5. In our prima facie view, there is substance in the submission made by the learned Counsel for the Applicant. The Applicant is a Government of India Undertaking. Substantial amount of TDS claimed by the Applicant, is disallowed by the Revenue. Such amount is already lying deposited with the Revenue.

6. In the facts and circumstances of this case, we are inclined to grant unconditional stay for recovery of demand, pursuant to the Order dated 10.12.2018. It is ordered accordingly.

7. The Civil Application is disposed of in the aforesaid terms. There shall be no orders as to costs. Parties to act on the authenticated copy of the order.

PRITHVIRAJ K. CHAVAN, J. R. D. DHANUKA, J.

Dv