IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 79, 80, 81, 82, 83 and 84 OF 2018

WRIT PETITION NOS. 79, 80 and 83 OF 2018

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,
Major in age. ... 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 NOS. 81, 82 and 84 OF 2018

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,
Major in age. ... 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 in WP No.79 of 2018.

Mr. D.J. Pangam, Advocate General with Mr. S. Redkar, Additional Government Advocate for the respondents in WP No.80 to 84 of 2018.

Coram:- M. S. SONAK &
NUTAN D. SARDESSAI, JJ.
Date:- 17th September, 2019

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

Writ Petition Nos.80, 81, 82, 83 and 84 of 2018 were not on board. However at the request of and with the consent of the learned counsel for the parties the same are taken on board and disposed off along with other matters which are already on board today fixed for final disposal.

2. Heard the learned Counsel for the parties.

3. In all these petitions the challenges are to the orders made by the First Appellate Authority as well as the Tribunal. The First Appellate Authority has refused to entertain the petitioners appeal on the basis of its interpretation of Section 28(3) of the Goa Tax on Entry of Goods Act,2000 (the said Act). Aggrieved, the petitioners instituted appeals before the Tribunal beyond the prescribed period of

limitation. The Tribunal has dismissed the application for condonation of delay by order dated 4th August 2017. The perusal of the order dated 4th August 2017 indicates that the Tribunal has not even considered the issue of sufficient cause shown by the appellant but the Tribunal has basically endorsed the interpretation of the First Appellate Authority in relation to the provisions of Section 28(3) of the said Act. The Tribunal has held that unless, even the disputed amounts are deposited or paid by the petitioners, there is no question of entertainment of any appeals.

4. In the judgment and order disposing off Writ Petition No. 380 of 2019, we have not endorsed the view of the First Appellate Authority and the Tribunal in the matter of maintainability of the appeals in terms of Section 28 (3) of the said Act. Applying the same reasoning, we cannot approve the view taken by the Tribunal in its orders dated 4th August 2017 as well.

5. Accordingly, we set aside the Tribunal's order dated 4th August 2017 and restore the petitioner's Second Appeal to the Tribunal in order to enable the Tribunal to consider and dispose of the petitioners applications for condonation of delay on their own merits.

6. The Rule in each of these petitions is made partly absolute in the aforesaid terms.

7. The parties to appear before the tribunal on 14th October 2019 at 10:30 a.m. and file authenticated copy of this order.

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

NUTAN D. SARDESSAI, J. **M. S. SONAK, J.**

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