IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 1122 OF 2017

Goa Cricket Association,
Goa Cricket Academy,
Behind Directorate of Education,
Porvorim, Goa.
Through its Hon. Secretary,
Shri DeshKinlekar,
Major of age. **... Petitioner**

Versus

1. Principle Commissioner of Income Tax,
   Office of the Principle Commissioner
   of Income Tax, AayakarBhavan,
   Plot No.5, EDC Complex,
   Patto Plaza, Panaji-Goa 403001.

2. Income Tax Officer (HQ)-1,
   Office of the Principle Commissioner
   of Income Tax, AayakarBhavan,
   Plot No.5, EDC Complex,
   Patto Plaza, Panaji-Goa 403001. **... Respondents**

Mr. S. S. Kantak, Senior Advocate with Mr. Abhijeet Kamat, Advocate for the Petitioner.

Ms. Tania Ferreira, Advocate holding for Ms. Amira Razaq, Standing Counsel for the Respondents.

Coram : PRADEEP NANDRAJOG, CJ.,
M. S. SONAK, J.

Date : 7th October, 2019.

ORAL JUDGMENT: [Per Pradeep Nandrajog, CJ.]:

Rule. Rule made returnable forthwith.

2. Compilation of Judgments required to be submitted in terms of the previous order dated 24.09.2019 has not been filed.

3. Learned Counsel for the Writ Petitioners relied upon the decision reported as (1999) 238 ITR 1997 *Smt. Laxmi Mittal v/s. Commissioner of Income Tax.* The said decision relates to the Voluntary Disclosure of Income Scheme, 1997. Laxmi Mittal had made a declaration of her income by the stipulated dated 31.12.1997. Amount payable was assessed. As per Section 67 of the Scheme the amounts payable had to be deposited in the account of the Income Tax authorities within 3 months. Part deposit was made by Laxmi Mittal within stipulated time. She met with an accident. She was admitted to a nursing home. She could not pay full amount within the stipulated time. The Department took a view that on account of not depositing full tax within the time granted the declaration was non est. Legal issue which arose before the Division Bench was: whether the declaration was non est notwithstanding

Laxmi Mittal being physically incapacitated to pay the amounts as determined within 3 months.

4. Noting that the Section did not lay down as inflexible rule according to which if deposit was not made within 3 months the declaration was non-est as also the deposits to be made would be non-est, relief was granted to Laxmi Mittal. Tax with interest was made payable on or before March 31.03.1998.

5. Now, time to note the relevant facts of the instant Petition.

6. The Petitioner Goa Cricket Association is affiliated to the Board for Control of Cricket in India (BCCI) and receives funds from the BCCI to carry out its activites which would obviously include paying tax dues under the income tax laws. Under the Direct Tax Dispute Resolution Scheme, 2016 on a declaration being made, complying with the requirements of the Scheme, the Income Tax Department proceeded to issue the necessary certificates on 09.03.2017 pertaining to the assessment years 2006-07 till 2012-13 requiring the Petitioner to deposit a sum of Rs.14,03,58,150/- on or before 07.04.2017. The problem which the Writ Petitioner faced was the pendency of proceedings before the Supreme Court in Civil Appeal No. 4236 of 2014 and Civil Appeal No. 1155 of 2015.

Noting that the state of affairs in the game of Cricket in India as was being conducted by the BCCI warranted transparency and greater accountability, the Supreme Court passed an order on 07.10.2016 injuncting the BCCI from paying money to the State Cricket Associations. This order was continued by the order dated 21.10.2016. The orders passed by the Supreme Court were in force much beyond even 07.04.2017. On 28.09.2017 the Petitioners wrote to the Principal Commissioner of Income Tax informing that if an order was passed, BCCI would directly pay the tax payable in the account of the Income Tax Department. The response received was on 22.11.2017 informing that law does not empower the tax authorities to extend the time by which the payments could be made.

7. This resulted in the instant Writ Petition being filed and needless to state the response is that under the Scheme no discretionary power is vested in the designated authority to extend time for making payment.

8. The aforenoted facts bring out that the Petitioner was incapacitated, for reasons beyond its control and power to make the necessary payments by 07.04.2017. Not only equities, on the principle of law that a person should not be visited with civil consequence nor should be denuded valuable rights which have accrued for no fault of the person concerned, leads us to dispose of

the Petition directing that if on behalf of the Petitioner the BCCI tenders by filling up the challan and tenders Rs.14,03,58,150/- together with interest as contemplated by the tax law for late payment, the said sum would be received by the Respondents to the credit of the Petitioner and would be in satisfaction of the tax payment certificates dated 09.03.2017 for the assement years 2006-07 till 2012-13. The declaratory order coupled with the mandamus would endure for a period of 180 days from today, meaning thereby the Petitioner has to work it out with BCCI for BCCI to act on behalf of the Petitioner within 180 days. If payment is not transmitted by the BCCI to the Respondents within 180 days from today, the declaration and mandamus issued shall be non-enforceable by the Petitioner.

9. Parties to bear their own costs.

M. S. SONAK, J. ***CHIEF JUSTICE***

msr.