IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.8938 OF 2018

State Bank of India .. Petitioner.
v/s.
The State Bank of India
& Others .. Respondents.

Mr. V. Sridharan, Sr. Advocate with Mr. Sriram Sridharan and Mr. Jas Sanghavi i/b. PDS Legal, for the Petitioner.
Shri V. A. Sonpal, Special Counsel with Mr. Yatin Khochare, AGP for the Respondent-State.

CORAM: M.S.SANKLECHA, &
M.S.SONAK, JJ.

DATE : 11th JULY, 2019.

P.C:-

This Petition under Article 226 of the Constitution of India challenges the order dated 31st March, 2018 passed by Respondent No.3-Dy. Commissioner of Sales Tax under Section 23(2) of the Maharashtra Value Added Tax, 2002 (the Act).

2 We note that there is an appeal available from the impugned order dated 31st March, 2018 to the Joint Commissioner of Sales Tax (Appeals) under Section 26 of the Act. The issue adjudicated upon by the Assessment Order dated 31st March, 2018 are issues which could appropriately be dealt with by the Appellate Authority under the Act. More particularly in the absence of the Petitioner being able to establish that the same is without jurisdiction.

3 In this view of the matter, we decline to entertain this Petition. However, we make it clear that in case as prayed by the Petitioner, if it does file Appeal under Section 26 of the Act to the Joint

Commissioner of Sales Tax (Appeals) within a period of six weeks from today, the Appellate Authority would entertain the appeal on merits. This for the reason that in case appeal is filed within the stipulated period, we condone the delay in filing the appeal as the Petitioner was bona fide prosecuting this Petition before this Court, challenging the impugned order. Mr. Sonpal, Special Counsel appearing for the Respondent-State does not object to the request made by the Petitioner.

4 Needless to state the Respondent will not adopt any recovery proceedings against the Petitioner till such time as the appeal is filed and for the period of four weeks thereafter.

5 It is clarified that all other requirements of the Act for the purposes of the appeal being entertained by the Appellate Authority would have to be independently complied with by the Petitioner, to the satisfaction of the Appellate Authority.

6 Accordingly, **Petition disposed of** in the above terms.

(M.S.SONAK,J.) **(M.S.SANKLECHA,J.)**