IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1068 OF 2019

Blue Star Ltd. ...Petitioner
vs
The Commissioner of State Tax & Ors. ...Respondents

Mr.V. Patkar with Ishan Patkar I/b. Jindagi Shah for Petitioner.
Mrs.Jyoti Chavan, AGP for Respondents.

CORAM : M.S. SANKLECHA &
S.C. GUPTE, JJ.

DATE : 8 AUGUST 2019

<u>P.C.</u> :

This petition takes exception to the order dated 27 November 2018 passed by Respondent No.3 – Joint Commissioner of State Tax (Appeals) rejecting the Petitioner's appeal under Section 9(2) of the Central Sales Tax Act, 1956 ("CST Act"). The impugned order dated 27 November 2018 dismissed the Petitioner's appeal under the CST Act in respect of the period 2011-2012.

2 Ms.Jyoti Chavan, learned AGP, opposes the petition on the ground of an efficacious alternative remedy being available under the CST Act in respect of the impugned order dated 27 November 2018 of the Joint Commissioner of State Tax (Appeals). Thus, this court should not entertain this petition under Article 226 of the Constitution of India.

3 The grievance of the Petitioner is that the impugned order dated 27 November 2018 passed by the Joint Commissioner (Appeals) is a

non-speaking order. This for the reason that it does not consider the various submissions made by the Petitioner after having recorded the same elaborately in the impugned order. This, the Petitioner submits, leaves it in the dark as to the reason why the submissions made by the Petitioner in support of the appeal were not allowed. It is, in these circumstances, that the Petitioner seeks to invoke this Court's extra-ordinary writ jurisdiction and not avail of the alternative remedy available under the MVAT Act and the CST Act.

4 On perusal of the impugned order dated 27 November 2018, we note that the same records the Petitioner's submissions in great detail. The impugned order in fact records the submissions made on the various claims in detail over eight pages on the following issues.

i. Disallowance of credit noted
ii. Levy of tax on account of non-submission of Form I
iii. Levy of tax on account of non-submission of Form F
iv. Levy of tax on account of non-submission of Form C
v. Levy of tax on account of export sales
vi. Levy of tax on account of sale repaire and service export
vii. Levy of tax on account of non-submission of High Sea sale
viii. Increase in turnover due to excess submission of C Forms
ix. Levy of tax on account of non-submission of C and E1 Forms

5 However, operative part of the order merely reads as under :

> “During appeal proceeding Shri Jayant Haldhar attended and submitted declarations in form C of amount of Rs.3.69,08,232/- out of which valid forms are allowed at Rs.29,31,267 rest are defected as under.
> BHARTI INFRA LTD – NO TIN MENTIONED
> SANDHAR CORP BA-ADDRESS AND NO TIN
> AQOVENT SYSTEM P LTD-INVALID PERIOD INV IS OF 2012-13 AND APPEAL PERIOD IS 2011-12
> BALAJI ELECTRONICS-BOTH PART OF FORMS ARE DUPLICATE INSTEAD OF ORIGINAL.
> Appellant failed to submit it correctly, hence disallowed.”

6 This manner of disposal of the appeal without addressing the various issues raised before the authority is not a manner in which a quasi-judicial order should be passed. The necessity for giving reasons to reach a particular conclusion is not only to make the parties concerned aware of the reasons why their appeal has been allowed or disallowed, but also gives an opportunity to the appellate authority to know the reasons which led the lower authority to reach a particular conclusion. It is only when the authorities adhere to the cardinal rule of giving reasons for their orders, would the parties have the satisfaction of having received justice at the hands of the authorities. We find that the impugned order is without any reasons, as pointed out hereinabove, and, therefore, cannot be sustained.

7 In the light of the above, we set aside the impugned order dated 27 November 2018 passed under Section 9(2) of the CST Act. We restore the Petitioner’s appeal from the order dated 3 November 2017 of the Deputy Commissioner of State Tax to the Joint Commissioner (Appeals) – Respondent No.3 for a fresh consideration and disposal after

following the principles of natural justice, which would include giving of reasons in support of the conclusions the order arrives at.

8 The Joint Commissioner of Sales Tax (Appeals) would dispose of the Petitioner's appeal as expeditiously as possible and preferably within eight weeks from today.

9 The petition is allowed in above terms.

(S.C. GUPTE, J.) **(M.S. SANKLECHA, J.)**