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

WRIT PETITION NO. 1799 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.
Mr.Himanshu Takke, AGP for Respondents.

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

DATE : 8 AUGUST 2019

P.C. :

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 26(5) of the Maharashtra Value Added Tax Act, 2002 ("MVAT Act"). The impugned order dated 27 November 2018 dismissed the Petitioner's appeal under the MVAT 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 MVAT 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.

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 eleven pages on the following issues.

i. Increase in turnover to excess submission of C Form
ii. Increase in sales turnover in respect of sale repair and service export
iii. Increase in turnover on account of amc
iv. Increase in turnover on account of installation charges
v. Increase in turnover on account of branch transfer within state
vi. Sale return disallowed
vii. Labour charges disallowed
viii. Amount paid to sub-contractors
ix. Setoff rejected due to purchase from RC cancelled dealers
x. Additional retention u/s 53(3) for branch transfer

xi. WCT-TDS disallowed

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

> "During appeal proceeding Shri Jayant Haldhar attended and submitted TDS certificates of Rs.16,92,790/- out of which valid certificates pertaining to period of 2011-12 are found at Rs.7,66,944/- hence it is allowed.
> Also he submitted form 407 of amount of 58,07,138 out of which amount of Rs.11899/- of M/s.Everest Air system and Rs.165597/- of M/s.Zalak insulation shows period of 2012-13 hence that amount is deleted and rest of claim allowed at Rs.56,29,642/-.
> Regarding claim of goods return appellant failed to produce details only sample are given and the claim of goods return includes goods rejected also details of which is not bifurcated hence claim can not be allowed.
> Regarding dis allowance of ITC he failed to submit list of ledger confirmations and as per assessment order ITC is disallowed due to RCC AND HAWALA. HENCE NO RELIEF IS POSSIBLE UNLESS DETAILS ARE PRODUCED."

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.)**