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

WRIT PETITION NO.2651 OF 2018

Bombay Dyeing and Manufacturing Co. Ltd. ...Petitioner
vs.
The State of Maharashtra and Another ...Respondents

Mr. Ishan Patkar i/b. Meet Sawant, for the Petitioner
Mr. V.S. Sonpal, for the Respondents

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

DATE : JUNE 13, 2019

P.C.:

. This Petition under Article 226 of Constitution of India seeks the following reliefs:

> *(a) That the Court may be pleased to issue a declaration and/or any other appropriate writ, direction or order, quashing and setting aside the Trade Circular No. 47T of 2017 dated 11th July, 2017 issued by the Respondent No. 2.*
>
> *(b) That the Court may be pleased to issue a writ of mandamus and/or any other appropriate writ, direction or order, quashing the Respondent No. 2 to issue Form C in respect of the period from October, 2017 to December, 2017.*
>
> *(c) That the Court may be pleased to issue a writ of mandamus and/or any other appropriate writ, direction or order, directing the Respondent No. 2 to issue Form C for all periods between the institution of this Petition and the judgment, subject to completion of all formalities by the Petitioner.*

2. Mr. Patkar, learned counsel appearing in support of the Petitioner fairly points out that the impugned Trade Circular No. 47T of 2017 dated 11th July, 2017 has now been withdrawn on 14th February, 2019. Thus the challenge to the Trade Circular No. 47T of 2017 dated 11th July, 2017 does not survive.

3. The Petitioner's other grievance is that the Respondents are not issuing Form C in respect of its purchase of natural gas from Gujrat. This is used in the manufacture of polyester staple fibre. Primarily, the contention of the Petitioner is that the same is unjustified. This notwithstanding the change in the definition of "goods" under section 2(d) of the Central Sales Tax Act, 1956, being limited as six items enumerated therein, the same would not govern the meaning of the word 'goods' under section 8(3) of the Central Sales Tax Act, 1956. However, we are of the view after the withdrawal of the impugned Trade Circular No. 47T of 2017 dated 11th July, 2017, the officers of the sales tax would not be constrained by the above circular in interpreting sections 2(d) and 8(3) of the Central Sales Tax Act, 1956.

4. In view of the above, it would be appropriate that the Petitioner make a representation to Respondent No. 2 – Commissioner of State tax with copy to its assessing officer being

Dy. Commissioner of State (E-635) setting out its case/claim for the issuance of “C” Form on purchase of natural gas from Gujrat. This representation would be made by the Petitioner on or before 18th June, 2019.

5. The Respondent No. 2 and/or Dy. Commissioner of State Tax (E-635) will dispose of the representation on merits after hearing the Petitioner in accordance with law within two weeks from the date of the Petitioner filing its representation.

6. Mr. Sonpal, learned counsel for the Respondents state that in case Sales Tax portal for making application in Form C qua the Petitioner is opened then the Petitioner's would be informed of the same. The Petitioner will then file its representation online. It is made clear that the delay in opening of the portal will not extend the time for the Commissioner Sales Tax to deal with the Petitioner's application.

7. In view of above, Mr. Patkar seeks leave to withdraw the Petition. The Petition is allowed to be withdrawn.

8. All contentions are kept open.

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