IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 7693 of 2020

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VIKRAM SHANTILAL PATEL

Versus

STATE OF GUJARAT

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Appearance:
MR AKSHAY A VAKIL(5473) for the Petitioner(s) No. 1
for the Respondent(s) No. 1,2

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CORAM: **HONOURABLE MR. JUSTICE J.B.PARDIWALA**
and
HONOURABLE MR. JUSTICE ILESH J. VORA

Date : 23/12/2020

ORAL ORDER
(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)

1. By this writ application under Article 226 of the Constitution of India, the writ applicant has prayed for the following reliefs:

> *"(A) Your Lordships may be pleased to admit and allow this writ petition.*
>
> *(B) Your Lordships may be pleased to issue appropriate writ order or direction quashing and setting aside the impugned order dated 20.02.2019 as well as oredr dated 15.11.2018 of the Gujarat Vat Tribunal.*
>
> *(C) Your Lordships may be pleased to direct restoration of Second Appeal No.1197 and 1198 of 2018 without deposit of amount of pre-deposit and be further pleased to direct that the Second Appeal No.1197 and 1198 of 2018 may be heard on merits.*
>
> *(D) Pending admission, hearing and final disposal of this petition, Lordships may be pleased to grant interim as well as ad-interim reliefs and thereby stay the recovery as well as the proceedings pursuant for recovery of total*

demand of Rs.1,07,55,552/- for the A.Y. 2007-2008 by the respondent authorities."

2. On 21.12.2020, this Court passed the following order:

"Mr. Vakil, the learned counsel appearing for the writ applicant submits that his client is ready and willing to deposit Rs.3 Lakh with the authority and for the balance amount of Rs.8 Lakh, he would furnish tangible security in the form of machineries i.e. plant. Mr. Vakil would submit that the authority can attach those machineries by way of security. It appears that the total liability of the writ applicant towards predeposit is Rs.11 Lakh. If the writ applicant is ready and willing to deposit Rs.3 Lakh, then, in our opinion, it is a reasonable proposal put forward by the writ applicant. Mr. Antani, the learned A.G.P. shall take instructions and revert to us. Post the matter on 23rd December 2020 on top of the Board."

3. Today, when the matter is taken up for hearing, Mr. K.M.Antani, the learned AGP submits that this Court may pass appropriate order protecting the interest of the revenue.

4. In view of the above, we direct the writ applicant to deposit an amount of Rs.3,00,000/- (Rupees Three Lakh) with the respondent No.2 and so far as the balance amount of Rs.8,00,000/- is concerned, the respondent No.2 shall accept the security being offered by the writ applicant in the form of his machines installed in the plant.

5. With a view to protect the interest of the revenue, the respondent No.2 can create a charge over the machinery installed in the plant of the writ applicant. Mr. Vakil, the learned counsel appearing for the writ applicant makes a statement that, it is an on-going industrial unit and therefore, the security he is offering is just and adequate.

6. Once the writ applicant deposits Rs.3,00,000/- with the respondent No.2 along with the security referred to above, the second appellate authority shall register the appeal filed by the writ applicant against the order of assessment passed by the adjudicating authority and decide the same in accordance with law.

7. With the above, this writ application stands disposed of.

(J. B. PARDIWALA, J)

(ILESH J. VORA,J)

A. B. VAGHELA/SUCHIT