JPP

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

WRIT PETITION NO. 390 OF 2020

Jackie Vora … Petitioner
V/s.
State of Maharashtra and Anr. ... Respondents

and
WRIT PETITION NO. 403 OF 2020

Kashyap Vora … Petitioner
V/s.
State of Maharashtra and Anr. ... Respondents

Mr. Ishaan Patkar a/w. Ms. Riya Jain i/b. Mr. Jindagi Shah for the Petitioners
Mr. Dushyant Kumar for the Respondents

CORAM : NITIN JAMDAR & M.S. KARNIK, JJ.

DATE : 26 FEBRUARY 2020.

P.C. **:-**

Heard learned Counsel for the parties.

2. By the impugned orders the Respondents have invoked the provisions of Section 44(6) of the Maharashtra Value Added Tax (MVAT) Act, 2002 and have directed the National Securities Depository Limited to keep a lien for Rs.5,65,59,312/-. The contention of the Petitioners is that the dues in respect of which lien

is sought to be levied are both under the Maharashtra Value Added Tax (MVAT) Act, 2002 and Central Sales Tax (CST)Act, 1956 and such a composite order could not have been passed. He submitted that the Petitioners have not been given an opportunity and directly a Garnishee Notice has been issued. It is further submitted that as far as the provisions of the Central Sales Tax Act are concerned, the proceedings against the Director of the Company can be taken only after the Company is wound up. It is contended that the Company is not still wound up.

3. The learned Counsel for the Respondents contends that all issues can be urged by the Petitioners before the Respondents and the Petitioners have submitted to the jurisdiction of the Respondents.

4. We are of the opinion that in the facts of the case the hearing needs to be given to the Petitioners before continuing with the levy of the lien. Admittedly, no notice has been given to the Petitioners before the lien was levied. The contention of the Petitioners regarding the Company being not wound up and the effect of the same regarding the due of Sales Tax will have to be considered. As far as the dues arising from the MVAT Act, the learned Counsel for the Petitioners submitted that the Petitioners will place all the material in support of the Petitioners and the contention as to why the attachment should not continue.

5. In these circumstances, we dispose of the Petitions as under :-

(a) The impugned order dated 5 December 2019 is quashed and set aside.

(b) The ad-interim order dated 11 February 2020 directing the parties to maintain status-quo to continue for a period of eight weeks from today.

(c) The Petitioners or the representatives will attend the office of the Respondent No.2 on 2 March 2020. The participation of the Petitioners will be without prejudice to the rights and contentions in respect of the dues under the CST Act.

(d) The Respondent No.2 will give opportunity to the Petitioners before proceeding further to pass any order.

(e) All contentions of the Petitioners in respect of jurisdiction of the Respondent No.2 in respect of the dues of the CST Act are kept open, including recourse to the writ remedy, if the case is so made out.

6. The Petitions are disposed of accordingly.

M.S. KARNIK, J. **NITIN JAMDAR, J.**

Jyoti P. Pawar Digitally signed by Jyoti P. Pawar Date: 2020.03.02 16:11:20 +0530