IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1774 OF 2017

Sunil s/o Bhaurao Chaudhari .Vs. State of Maharashtra, through its Secretary for Ministry of Finance, Mantralaya, Mumbai and others

Office Notes, Office Memoramda of Coram, appearances, Court's orders of directions and Registrar's Orders.	Court's or Judge's orders.

Mr. A.A. Naik, Advocate for petitioner.
Mr. A.A. Madiwale, A.G.P. for respondent nos. 1 to 3.

CORAM : V.M. DESHPANDE AND S.M. MODAK, JJ.

DATED : FEBRUARY 17, 2020.

The petition is filed by a practicing Advocate for following reliefs :

"1. To issue suitable writ, order or direction thereby directing the respondents to make necessary amendments in the Amnesty Scheme floated through the newly inserted Sub-section 3 of Section 3 of Maharashtra State Tax on Profession, Trade, Callings and Employment Act, 1975 so that benefit of the scheme could given to the petitioner and similarly situated advocates who are already enrolled and paid some part of professional tax in the past.

2. Any other relief that deems fit and proper in the interest of justice "

2. Heard Mr. A.A. Naik, learned counsel for the petitioner and Mr. A.A. Madiwale, learned Additional Government Pleader for the respondent nos.1 to 3. It is an admitted position on record that the petitioner, after acquiring professional qualification to act as an Advocate, got himself registered with the Bar Council of Maharashtra and Goa and accordingly his name was enrolled on the roll of the Bar Council of Maharashtra and Goa vide registration No.E-3430-3477-1986. Thus, petitioner was enrolled as an Advocate in the year 1986 however started practice at District Court, Wardha from 1987. The petitioner thereafter registered himself under Maharashtra State Tax on Profession, Trade, Callings and Employment Act, 1975 (for short "the said Act") in the year 2011 and accordingly he paid ₹5,800/- towards arrears of professional tax for the year 2009-10 and 2010-11.

3. The petitioner got a notice dated 13.07.2016 from the Professional Tax Officer, Wardha along with said notice the Amnesty Scheme for professional tax was also attached. In the light of this petitioner has moved this petition with prayer as stated in the preceding paragraph of this order.

4. As per the Amnesty Scheme, only the persons who are not enrolled under the said Act are entitled for the benefits of the scheme. The scheme the specifically spells out that persons who are already enrolled under the said Act to pay the professional tax are not entitled for the benefits under this scheme. The Amnesty Scheme is framed by the State by exercising powers vested in it under Section 3 of the said Act.

5. The submission and the pleadings made in the writ petition neither spells out a challenge to the powers of the State to frame the scheme nor anything is demonstrated before the Court that the scheme was framed only to keep aside a certain section.

6. In the present case, the petitioner was already registered/enrolled under the said Act. In that view of the matter and especially when there is no challenge to the powers to the Government to frame such a scheme, we are unable to extend the benefits of the Amnesty Scheme in favour of the petitioner. Consequently, the writ petition is dismissed. No order as to costs.

<u>JUDGE</u> **<u>JUDGE</u>**

srwagh