Meena

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.191 OF 2022
AND
WRIT PETITION NO.192 OF 2022

VASSUDEVA DEMPO FAMILY PVT. TRUST, THR.ITS CONST. ATT., SHARMILA SANDEEP PRABHU **...Petitioner**

Versus

ADD./JOINT/DY./ASS. COMM. OF INCOME TAX/INCOME-TAX OFFICER, THR. CHIEF COMM. OF INCOME TAX AND ANR **...Respondents**

Mr. Rohan Deshpande and Ms. Pooja Naik, Advocates for the petitioner.

Ms. Amira Razaq, Standing Counsel for the Respondents.

CORAM: M. S. SONAK &
R. N. LADDHA, JJ.

Date: 22nd August 2022

P.C.

Heard learned Counsel for the parties.

2. The learned Counsel for the parties agrees that both these petitions can be disposed of by a common order.

3. The petitioner's main grievance is that their Immunity Applications under Section 270AA of the Income Tax Act, 1961 (the said Act) are yet to be disposed of. They submit that unless these applications are disposed of, the respondents should not be permitted to execute the impugned penalty orders.

4. Ms. Razaq, learned Counsel for the respondents submits that there is an issue about the maintainability of the Immunity Applications made by the petitioner.

5. According to us, the respondents must dispose of the Immunity Applications made by the petitioner one way or the other by affording the petitioner an opportunity of hearing. Even the provisions of the said Act provide an opportunity of hearing in the event any adverse orders are proposed on the Immunity Applications. Accordingly, we direct the concerned respondents/appropriate Authority to dispose of the petitioner's Immunity Applications under Section 270AA of the Act as expeditiously as possible on their own merits and in accord with the law.

6. All contentions of all the parties, including, the contention about maintainability are expressly kept open.

7. Further, until the Immunity Applications are disposed of one way or the other, the respondents shall not implement the impugned penalty orders. If the Immunity Applications are allowed, then possibly, there will be no occasion for implementation of penalty orders. However, if the Immunity Applications are rejected, then, for a period of four weeks from the date of the communication of such rejection, the impugned penalty orders shall not be executed to enable the petitioners to take appropriate steps as may be advised.

8. Once again we make it clear that we have not examined the merits or demerits of the rival contentions because we think that it would be appropriate that the concerned respondents/appropriate Authority first examine the same while adjudicating upon to petitioner's Immunity Application under Section

270AA of the said Act. Therefore, all contentions of all the parties on merits, maintainability etc. are expressly kept open.

9. Both the petitions are disposed of in the above terms. There shall be no order for costs.

R. N. LADDHA, J **M. S. SONAK, J**

MEENA VISHAL BHOIR

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