IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5821 OF 2021

V. V. Mali. U. P. Koli and S. B. Koli
A Partnership Firm : Petitioners
versus
The State of Maharashtra and ors. : Respondents

Mr. Rahul Thakar i/by C B Thakar & Co. for Petitioners.
Smt. S D Vyas' "B" Panel Counsel for Respondents-State.

CORAM : K. R. SHRIRAM &
A. S. DOCTOR, JJ.
DATE : 11th OCTOBER 2022

P.C.

1 After the Petition was heard for some time, both the learned counsel agreed that the assessment order and the rectification order impugned in the Petition dated 09th March 2020 and 30th August 2020, respectively, be quashed and set aside and matter be remanded for *de-novo* consideration.

2 Only point of dispute that remained was which will be the commencement date of registration. Mr. Thakar submitted that it should be 1st November 2011 whereas Ms.Vyas submitted that it should be 29th March 2012 when the application for registration under the new ownership of Petitioner was made.

3 Petitioner carries on liquor business. One Ms. Khot Patil held license which was transferred to Petitioner on 2nd June 2011. It is Petitioner's case that since other formalities were not completed, Petitioner could apply for transfer of registration certificate under the provisions of Maharashtra Value Added Tax Act only on 29th March 2012. Subsequently, registration certificate came to be issued with effect from 14th December 2012.

4 On 31st January 2013, Petitioner filed an application for administrative relief for getting effect of registration certificate from 2nd June 2011. It is Petitioner's case that Petitioner was granted administrative relief and composition amount was fixed at Rs.24,100/- which Petitioner paid on 04th March 2013. It is Petitioner's case that therefore Petitioner's registration has come into effect from 01st November 2011. To this extent, Petitioner has also relied upon a copies of certificate dated 23rd May 2016, that Petitioner had down loaded from the portal of Respondents, which shows effective date of certificate as 01st November 2011. Petitioner had also applied for a certified copy of the same, and Petitioner was also issued certified copy. All these documents are annexed at Exhibits O and U, respectively, to the Petition.

5 Notwithstanding this, Respondent has taken a peculiar stand

that due to data migration there were certain certificates issued with errors. Respondent first filed affidavit of one Niranjan Kumar Joshi affirmed on 30th May 2022 and, when the Court directed Respondents to explain whether problem which Respondents stated had with Petitioner's certificate was experienced by others also, Respondents filed an affidavit of Ganesh Subhash Misal, affirmed on 11th September 2022. Unfortunately, this affidavit does not support Respondents' case. In any event to the said affidavit is annexed data regarding Petitioner in which it shows commencement date as "2nd June 2011", the registration effective date as "14th December 2012", and effective date of certificate as "01st November 2011".

6 We are therefore satisfied that Petitioner's registration has come into effect with effect from 01st November 2011. Respondents are directed to pass fresh assessment order on basis that Petitioner's registration became effective with effect from 01st November 2011.

7 Petition disposed. No order as to costs.

8 We however clarify that on the merits of the matter we have not expressed any opinion.

(A. S. DOCTOR, J.) **(K. R. SHRIRAM, J.)**