IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2251 OF 2020

Hindustan Aeronautics Ltd. ….Petitioner

V/s.

The State of Maharashtra …Respondent

Mr. Ishaan Patkar a/w Ms. Chaitali Raul for Petitioner.
Ms. S.D. Vyas – "B" Panel Counsel for State.

CORAM : K.R. SHRIRAM &
ARIF S. DOCTOR, JJ.
DATED : 15th NOVEMBER 2022

P.C. :

1. Another petition filed by petitioner, i.e., Writ Petition No. 9806 of 2019 came to be disposed by an order dated 10th October 2019. The order reads as under :

> *The Petitioner challenges the order passed by the Deputy Commissioner of Sales Tax dated 31 March 2017. The impugned order was passed under section 23(3) of the Maharashtra Value Added Tax Act 2002 (MVAT Act) relating to the period 2012-13 and the order passed by the first appellate authority dated 21 April 2018.*
>
> *2. A preliminary objection is raised by the Respondents that the Petitioner has an alternative efficacious remedy of statutory appeal to the Maharashtra Sales Tax Tribunal.*
>
> *3. The learned counsel for the parties have placed on record order dated 22 August 2019 passed in Writ Petition No.155 of 2019 filed by the Petitioner wherein the Division Bench disposed of the Writ Petition on the ground that the Petitioner has an alternative remedy. The learned counsel for the parties agree that the controversy raised in this Petition is identical to the one raised in Writ Petition No.155 of 2019 except that the appeal in this case would lie to the Maharashtra Sales Tax Tribunal instead of the Joint Commissioner of Sales Tax (Appeals). It is therefore not necessary to scrutinise issues on the controversy.*

4. Before we dispose of this Writ Petition we note that the Petitioner was bona fide prosecuting this Petition. Secondly, we had given liberty to the Petitioner in the order disposing Writ Petition No.155 of 2019 to request the Tribunal to take up the appeal earlier. We are informed that the Tribunal has accepted the request.

5. We dispose of the Petition on the ground that the Petitioner has a remedy of filing an appeal. If the Petitioner files an appeal to the Maharashtra Sales Tax Tribunal against the impugned order within period of four weeks from today, the Tribunal would entertain the appeal on merits without considering the issue of limitation for the reason that we have condoned the delay in filing the appeal, if the same is filed within the period of four weeks from today, upon satisfying all other requirements under the Act.

6. Petition disposed of in above terms.

2. Mr. Patkar states and Ms. Vyas agrees that present petition will also be covered by the order dated 10^{th} October 2019 as quoted above.

3. Therefore, we dispose the petition on the ground that petitioner has remedy of filing an appeal being first appeal before the first Appellate Authority. If petitioner files such an appeal against the impugned order within four weeks from the date this order is uploaded, the said Appellate Authority would entertain the appeal on merits without considering the issue of limitation since we have condoned the delay in filing the appeal, if the same is filed within four weeks from the date this order is uploaded, upon satisfying all other requirements under the Act.

4. Petition disposed.

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

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