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

WRIT PETITION NO.1652 OF 2024

Pooja Engineering Co. .. Petitioner
Versus
The State of Maharashtra .. Respondent

Mr. Rahul Thakar i/by Mr. C. B. Thakar for the petitioner.
Ms. Jyoti Chavan, Addl. G. P. for the respondent-State.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.
DATE : 11 December 2024

P.C.:-

1. Heard learned counsel for the parties.

2. The challenge in this petition is to the order dated 24 November 2021 made by the Deputy Commissioner of State Tax (impugned order) rejecting the petitioner's application for refund.

3. On perusing the records, we are satisfied that no proper opportunity of hearing was granted to the petitioner. Besides, at least *prima facie*, even the refunds for the period for which the applications were within the prescribed period were rejected on the ground that the application for refund was a consolidated application and the claim of refund for some of the periods was allegedly barred by limitation.

4. The learned counsel for the petitioner has submitted that even the rejection of those claims was based upon misconstruction of the decision of the Hon'ble Supreme Court.

5. At this stage, we are not required to decide the rival contentions because Ms. Chavan, learned Addl. G. P., based on instructions, fairly

stated that the impugned order could be quashed and the matter remanded to the Deputy Commissioner of State Tax for a fresh decision after giving the petitioner an opportunity of being heard. We agree with Ms. Chavan that this would be appropriate course of action to adopt so that both the parties have full opportunity to present their case before the Deputy Commissioner of State Tax.

6. Accordingly, we quash the impugned order dated 24 November 2021 and remand the matter to the Deputy Commissioner of State Tax for deciding afresh the petitioner's refund application by following law and on its own merits. As a consequence of setting aside the impugned order dated 24 November 2021, the Appellate Authority's order dated 10 March 2023 would also not survive and the same is set aside without the necessity of the examining.

7. All contentions of all parties on merits are left open. Even the observations in this order, are only *prima facie* and need not influence the Deputy Commissioner of State Tax.

8. The Deputy Commissioner of State Tax should dispose of the remanded refund application as expeditiously as possible.

9. The learned counsel for the petitioner states that additional compliances, if any, would be made within four weeks from today.

10. This petition is disposed of in the above terms. There shall be no order for costs.

11. All concerned to act on the authenticated copy of this order.

(Jitendra Jain, J.) **(M. S. Sonak, J.)**