

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

MAHARASHTRA VALUE ADDED TAX APPEAL NO. 82 OF 2016

M/s. Zaar Line } Appellant
versus
The State of Maharashtra } Respondent

Mr. P. C. Joshi with Mr. Piyush N. Shah
for the appellant.

Ms. Jyoti Chavan - Assistant Government
Pleader for the respondent.

CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.
DATED :- FEBRUARY 7, 2017

P.C. :-

1. Having heard both sides and finding that the tribunal has omitted from consideration several important aspects of the matter, we proceed to admit the appeal. It is admitted on the following substantial questions of law:-

(a) Whether on the facts and circumstances of the case, the tribunal was justified in rejecting the deduction in relation to the works executed by the sub-contractors even though the prescribed certificates and declarations in Forms 407 and 408 were produced before it?

(b) Whether on the facts and circumstances of the cases and the proper interpretation of sections 42(3), 45(4) of the Act read with rule 50, the tribunal was justified in holding that the appellant had opted for payment of lump sum under the Composition Scheme notified for works contractors. Whether such a conclusion amounts to a perverse one?

(c) Whether on the facts and circumstances of the case, the tribunal was justified in denying the statutory deductions provided in rule 58?

(d) Whether on the facts and circumstances of the case and in the proper interpretation of section 33 (as it then prevailed) read with section 26(5), the tribunal was justified in holding that the first appellate authority had the power of enhancing the interest disputed before him?

2. The respondent waives service.

(B.P.COLABAWALLA, J.) (S.C.DHARMADHIKARI, J.)

