IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.543-547/2024
(Arising out of SLP(C) Nos.3272-3276 of 2015)

COMMISSIONER, CENTRAL EXCISE,
AHMEDABAD-III **APPELLANT(S)**

VERSUS

GUJARAT STATE PETRONET LTD. **RESPONDENT(S)**

O R D E R

Leave granted.

2. The limited issue which arises in these appeals is with regard to the grievance of the appellant-Department insofar as the impugned order is concerned under which two questions of law which the appellant-Department sought to raise before the High Court in the context of extended period of limitation and imposition of penalty, were not permitted to be raised.

3. To elaborate, the appellant sought to raise additional questions with regard to the Tribunal not permitting extended period of limitation to the appellant-Department for recovery of dues and for receiving penalties imposed by the Adjudicating Authority.

4. On perusal of the impugned order, we find that the High Court in paragraphs 5 to 13 has elaborately considered the aforesaid two aspects on the merits of the case as to why the substantial questions of law cannot be raised. It is not

necessary for us to extract those paragraphs.

5. It is stated at the Bar that the main appeals are still pending consideration in the High Court.

6. Learned counsel for the appellant submitted that the High Court could not have considered the merits of the case(s) at the admission stage, even with regard to the raising of substantial questions of law inasmuch as ultimately on hearing the parties, the Court could have assigned reasons as to whether the substantial questions of law were made good by the appellant or it had to be answered in favour of the respondent. However, this is a case where the High Court did not permit even raising of substantial questions of law on the aforesaid aspects of the case. Therefore, it was submitted that portion of the order declining to raise substantial questions of law on the aspect of extended period of limitation and on penalty may be set-aside and an opportunity may be given to the appellant herein to raise those substantial questions of law and on the same being raised, the High Court could frame the said questions of law and the High Court could answer the same one way or the other.

7. Per contra, learned counsel appearing for the respondent vehemently contended that High Court has considered the case(s) of the parties on merits and has declined to raise the substantial questions of law on the aspect of extended period of limitation as well as on penalty and there is no merit in these appeals.

8. At the outset we find that while the High Court has framed certain substantial questions of law as raised by the appellant herein and the matter(s) is pending consideration on merits, the High Court could not have in the first instance gone into the merits of the case(s) insofar as extended period of limitation and imposition of penalty is concerned and, on that basis, declined to frame the substantial questions of law.

9. We find that the High Court ought to have raised the substantial questions of law as sought for by the appellant herein in the first instance and thereafter considered the same on merits by answering the same one way or the other. We say so for the reason that when the appeals were admitted and the main appeals are pending adjudication before the High Court, it was unnecessary for the High Court to have passed detailed reasons as to why the aforesaid two substantial questions of law would not arise for consideration, at the stage of admission. No prejudice would have been caused to any of the parties if the substantial questions of law, as raised by the appellant, had been considered and answered by the High Court on merits at the time of final adjudication of the appeals. Sometimes substantial questions of law may have a bearing on each other and if a particular substantial question of law is not permitted to be raised at the stage of admission of the appeal, it may prejudice the case of the appellant while considering the case on merits. Then at the

stage of final adjudication, it may have to be raised and an opportunity to advance arguments will have to be given to the parties. Moreover, any finding arrived at while holding that a particular substantial question of law does not arise in the appeal at the stage of admission may also prejudice the case of the parties and in particular the appellant before the High Court, whether the assessee or the Revenue, at the time of the final adjudication of the appeal on merits.

10. In the circumstances, that portion of the order of the High Court declining to raise the substantial questions of law as sought for by the appellant-Revenue herein is set-aside and the High Court is now requested to hear the parties by raising the substantial questions of law on the issue of extended period of limitation as well as on the issue of imposition of penalty. The High Court shall now consider the aforesaid aspect of the matter(s) on its own merits and dispose of the appeals filed by the appellant herein in accordance with law.

11. The appeals are disposed of in the aforesaid terms. We have not expressed anything on the merits of the appeal pending adjudication before the High Court.

It is needless to observe that if the parties seek early hearing of the appeals, the same shall be considered by the High Court in accordance with law.

.........................J.
(B.V. NAGARATHNA)

.........................J.
(SANJAY KAROL)

NEW DELHI;
JANUARY 17, 2024

ITEM NO.15 COURT NO.11 SECTION III

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).3272-3276/2015

(Arising out of impugned final judgment and order dated 09.01.2014 in Tax Appeal No.1044/2013 to Tax appeal No.1048/2013 passed by the High Court of Gujarat at Ahmedabad)

COMMISSIONER, CENTRAL EXCISE, AHMEDABAD III Petitioner(s)

VERSUS

GUJARAT STATE PETRONET LTD. Respondent(s)

Date:17-01-2024 These petitions were called on for hearing today.

CORAM :
HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE SANJAY KAROL

For Appellant(s) Mr. K.M. Nataraj, A.S.G.
Mr. Mukesh Kumar Maroria, AOR
Ms. Nisha Bagchi, Adv.
Ms. Preeti Rani, Adv.
Mr. Merusagar Samantaray, Adv.
Mr. Annirudh Sharma Ii, Adv.
Mr. T.s. Sabarish, Adv.

For Respondent(s) Mr. Sujit Ghosh, Adv.
Ms. Mannat Waraich, AOR
Mr. A. Tiwari, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeals are disposed of in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(RADHA SHARMA) (MALEKAR NAGARAJ)
COURT MASTER (SH) COURT MASTER (NSH)
(Signed order is placed on the file)