

Non-speaking order passed by the adjudication authority set-aside – Bombay High Court

High Court of Bombay¹, has recently set aside an assessment order passed by revenue under the erstwhile VAT law² on the grounds that no reason was recorded by the authorities while rejecting the submission made by the petitioner.

Facts of the case

Petition challenged the assessment order, on the grounds that the authority having recorded the submissions made by the petitioner³ had provided no reasons in the impugned order as why the contention of the petitioner was not acceptable.

During adjudication proceeding, the petitioner had submitted that they are not dealers under the VAT laws as it only provides an electronic platform which enables buyers and sellers to enter into transactions independently with each other.

High Court order

After observing that the adjudicating order had not dealt with the submission made by the petitioner, the court held that the decision making process is flawed as it does not consider the petitioner's submissions. Unless the petitioner's submission are dealt with at the original stage, the petitioner would be handicapped in pleading its case before the Appellate Authority as it would have no clue as to why the submissions of the petitioner were not accepted.

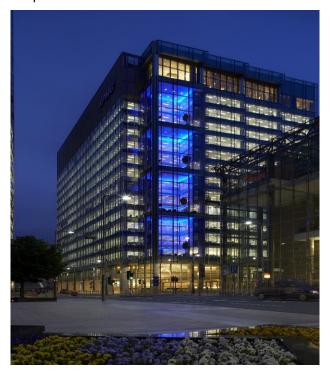
Thus, it is necessary that the order passed by the adjudicating authority should deal with the submissions made by the parties before it by giving reasons in support of its conclusion, particularly when it does not accept the submissions made.

Consequently, the court directed to restore the assessment to the adjudicating authority for fresh consideration.

Our comments

Similar to the above ruling, the Bombay High Court had previously⁴ set aside the order passed by the appellate authority for advance ruling under the GST law on similar grounds that the contention/submission of the parties was not considered in the order passed by the appellate authority.

The above orders, would entail revenue, to provide a reasonable cause for rejecting, the contention placed by the parties in their order.



¹ TS-558-HC-2019(BOM)-VAT

² Maharashtra Value Added Tax Act, 2002

³ Minkart India Pvt. Ltd.

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