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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**SALES TAX REFERENCE NO. 69 OF 2017**

The Commissioner of Sales Tax, Mumbai ...Applicant  
*Versus*  
Richardson & Crudas (1972) Limited. ...Respondent

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**Ms Jyoti Chavan, Addl. GP**, with Himanshu Takke, AGP, for the Applicant-State.

**Ms Nikita Badheka**, with Parth Badheka, Lata Nagal, for the Respondent.

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**CORAM: SUMAN SHYAM &  
GAUTAM A. ANKHAD, JJ.**

**DATED: 6<sup>th</sup> OCTOBER 2026.**

**PC:-**

1. Heard Ms Jyoti Chavan, learned Additional Government Pleader appearing for the Applicant-State. Also heard Ms Nikita Badheka, learned Counsel appearing for the Respondent.

2. This Reference is arising out of the order dated 4<sup>th</sup> March 2006, passed by the learned Tribunal in Reference Application Nos. 45 & 46 of 2002, whereby the following questions of law had been framed and referred to this Court.

“i. Whether on a true and correct interpretation of the first proviso to sub-section 4A of section 33 of the

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Bombay Sales Tax Act, 1959, the Tribunal was justified in law in holding that the provision of the said proviso are mandatory and not directory?

ii. Whether on a true and correct interpretation of the first proviso to sub-section 4A of section 33 of the Bombay Sales Tax Act, 1959, the Tribunal was justified in law in holding that the applicability of the provisions of the said proviso is not limited only to sub-section 4A but extends to the entire section 33?"

3. Ms Badheka, learned Counsel appearing for the Respondent, has invited our attention to the decision of this Court rendered by a Co-ordinate Bench in the case of *Commissioner of Sales Tax, Maharashtra State, Mumbai vs. Lucas India Services Ltd.*,<sup>1</sup> to submit that the issue of limitation has been conclusively dealt with and answered by the Division Bench in favour of the Assessee as against the Revenue. Therefore, the questions of law framed by the learned Tribunal do not survive for being considered by the Court in the present proceeding.

4. A cursory glance at the two questions of law framed by the learned Tribunal, as noted above, gives us an impression that those are nothing but one and the same, although, couched in a slightly

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<sup>1</sup> [2012] 50 VST 106 (Bom)

different language. Be that as it may, whether, the learned Tribunal was justified in expressing a particular opinion pertaining to interpretation of sub-section 4A of Section 33, in our opinion, by itself, would not give rise to a question of law. It would have been a different matter, had the Tribunal framed a question on a proposition of law emanating from sub-section 4A of Section 33, which apparently has not been done in the present case. Therefore, viewed from that angle, we are of the view that the questions framed by the learned Tribunal do not give rise to any question of law.

5. Insofar as the legal issue involved in the matter is concerned, the said issue had been appropriately dealt with by a Division Bench in the case of ***Lucas India Services Ltd.*** (Supra), the relevant observations whereof are available in paragraphs 21 to 23 of the said decision, which are reproduced herein-below for ready reference:-

“ 21. As a matter of fact, the questions referred are no more res integra in view of the judgment of the Hon'ble Supreme Court in the case of *Debaki Debi [1964] 15 STC 153 (SC)*. The Apex Court in the said case whilst dealing with the pari materia provision of the Orissa Sales Tax Act, 1947; wherein identical proviso having similar placement in the statutory provision/

section was a subject matter of interpretation and consideration, observed as follows (page 161 in 15 STC)

“ ....The proviso is not in terms limited only to orders of assessment made under section 12, but on its language applies to and governs any order assessing the amount of tax, which would manifestly include an assessment under any provision of the Act besides section 12. ...”

22. In the above view of the matter, the submission made by Mr. Surte deserves acceptance.

23. In the result, the questions referred stand answered in favour of the Assessee and against the Revenue. Both the References stand disposed of in terms of this order with no order as to costs.”

6. In view thereof, the question framed by the learned Tribunal also, in our considered opinion, would not survive in this Reference.

7. Consequently, the Reference is devoid of merit and the same is, accordingly, dismissed.

(GAUTAM A. ANKHAD, J.)

(SUMAN SHYAM, J.)