(2011) 02 BOM CK 0184

In the Bombay High Court

Case No : Writ Petition No. 794 of 2010

Bernard F. D''Souza APPELLANT

Vs

The South Goa Planning and Development Authority RESPONDENT

Date of Decision : 08-02-2011

Acts Referred:

Constitution of India, 1950 — Article 227
Goa Tax on Infrastructure Act, 2009 — Section 3(7)

Citation : (2011) 02 BOM CK 0184

Hon'ble Judges : A.P. Lavande, J

Bench : Single Bench

Advocate : J. Godinho, for the Appellant; Menino Pereira, for the Respondent

Judgement

A.P. Lavande, J.—Rule. By consent of the learned Counsel for the parties heard forthwith.

2. Heard Mr. Godinho, learned Counsel for the Petitioner and Mr. Pereira, learned Counsel for the Respondent.

3. By this petition under Article 227 of the Constitution of India, the Petitioner has challenged the order dated 10th May, 2010 passed by the appellate authority, Panaji constituted u/s 3(7) of Goa Tax on Infrastructure Act, 2009 (''the Act'' for short).

4. The Petitioner herein filed appeal u/s 3(7) of the Act challenging the assessment order dated 5th April, 2010 passed by the Respondent and prayed for refund.

5. Perusal of the impugned order discloses that the appellate authority has not dealt with the several contentions raised in memo of appeal and without giving any reasons, has disposed of the appeal.

6. It is well settled by a catena of decisions of the Apex Court that a quasi judicial authority dealing with the matter, is bound to give reasons. On this

ground alone, the impugned order is liable to be set aside.

7. In view of the above, the impugned order dated 10th May, 2010 passed by the appellate authority is quashed and set aside. The appellate authority is directed to pass fresh order after giving opportunity of being heard to the Petitioner and in the light of the observations made above in accordance with law.

8. The Petitioner to appear before the appellate authority on 1st March, 2011 at 3.00 p.m. The appellate authority shall dispose of the appeal expeditiously and in any case on or before 30th April, 2011.

9. Rule is made absolute in aforesaid terms with no order as to costs.

