IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2257 OF 2016
IN
WRIT PETITION NO.9175 OF 2015

Mahyco Monsanto Biotech (India) Pvt Ltd ..Applicant

IN THE MATTER BETWEEN

Mahyco Monsanto Biotech (India) Pvt Ltd ..Petitioner

Vs.

The Union of India and Others ..Respondents

Mr. Prakash Shah a/w Mr. Prasad Paranjape, Mr. Arun Jain i/b PDS Legal,for the Petitioner/Applicant.

Mr. Pradeep S. Jetley a/w Mr. Jitendra B. Mishra, for Respondent Nos.1 and 3.

Mr. V. A. Sonpal, Special Counsel for Respondent Nos.2 and 4.

CORAM :- **S.C. DHARMADHIKARI &**
B.P.COLABAWALLA, JJ.
DATE :- **AUGUST 23, 2016.**

P. C.:

This Civil Application is by the Original Petitioner.

2 Prayer Clause (a) of this Civil Application reads as under:-

(a):that this Hon'ble Court be pleased to direct the Respondent Nos.2 and 4 to not to take coercive step for recovering the amount and maintain status quo for a period of 12 weeks from the date on which this Hon'ble Court allow this application."

3 Mr. Sonpal, appearing on behalf of the Revenue/Respondent would submit that the original Petition which was disposed off does not contain any averments about pendency of assessment or the appellate proceedings, particularly, under the Maharashtra Value Added Tax Act, 2002 ("the MVAT Act").

4 Under such circumstances, he would submit that no relief be granted in Civil Application.

5 On the other hand, Mr. Shah, appearing on behalf of the Original Petitioner and Applicant before us would submit that in the substantive judgment pronounced by this Court, the Petitioners have been granted liberty to seek such relief as is permissible in law and particularly attention of the Court is invited to paragraph 53 of the judgment.

6 Having heard both sides on the point, we are of the view that to decide the appropriate course of action, including to seek benefit of the liberty granted by paragraph 53 or to contest the assessment proceedings, some protection needs to be granted. The Applicant deserves that protection for the simple reason that the constitutional challenge was pending before this Court for quite some time. We direct that without prejudice to the rights and contentions of the parties, particularly of the Revenue, for a period of three months from today, no coercive measures should be taken for the purposes of determining the value added tax under the MVAT Act.

7 The Civil Application is disposed off.

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