IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2017 OF 2021

NSL Wind Power Co. (Satara) Pvt. Ltd. ..... Petitioner

Vs.

State of Maharashtra & Ors. ..... Respondents

Mr. Deepak Bapat with Sonali Bapat for the Petitioner
Mr. Sonpal, Special Counsel with Mrs. A.A. Purav, AGP for the Respondent State

**CORAM: S.V. GANGAPURWALA & VINAY JOSHI, JJ.**

**DATED : APRIL 4, 2022**

**P.C.**

1 Heard the learned Counsel for the Petitioner and the learned Special Counsel for the Respondents.

2 The learned Counsel for the Petitioner submits that in the impugned order it is clearly stated that at the time of review scrutiny it is noticed that dealer has effectuated sales to one M/s. Regen Powertech Pvt. Ltd. of Rs.1,80,28,232/-. The Dealer shows his sale as NIL. The dealer has paid tax of Rs.8,58,492/- along with interest. The total tax paid is Rs.18,73,802. The learned Counsel submits that apart from that there is no other evidence of sale. 5% under MVAT Act 2002 would be leviable on sales

only. The Authority has not come to the conclusion that the sale has been effectuated.

3 The learned Counsel for the Respondents submits that the detail order has been passed by the Authority after considering all the pros and cons.

4 It appears from the record that the matter was not duly considered. The contention of the Petitioner that the disallowed transaction of purchase return ought not to have treated as sale of goods, is not considered. The aspect of sale will have to be investigated. It is not disputed by the Respondents that 5% under MVAT Act 2002 would be taxed on sale.

5 In the light of the above, the impugned order is set aside.

6 The parties are relegated before the Authority passing the order. The authority shall consider the matter after hearing the parties afresh on merits and expeditiously.

7 The Writ Petition stands disposed of accordingly. No costs.

**(VINAY JOSHI, J.)** **(S.V. GANGAPURWALA, J.)**