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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8988 OF 2022

The Whirlpool Corporation Inc. and Ors.

.....Petitioners

Vs.

Union of India and Ors.

.....Respondents

WITH
WRIT PETITION NO. 897 OF 2022
WITH
WRIT PETITION NO. 898 OF 2022
WITH
WRIT PETITION NO. 901 OF 2022
WITH
WRIT PETITION NO. 899 OF 2022
WITH
WRIT PETITION NO. 900 OF 2022
WITH
WRIT PETITION NO. 2261 OF 2022
WITH
INTERIM APPLICATION (ST) NO. 12543 OF 2022
IN
WRIT PETITION NO. 2261 OF 2022
WITH
INTERIM APPLICATION (ST) NO. 12302 OF 2021
IN
WRIT PETITION NO. 2261 OF 2022
WITH
WRIT PETITION NO. 5947 OF 2021
WITH
INTERIM APPLICATION (ST) NO. 11544 OF 2021
WITH
WRIT PETITION NO. 8998 OF 2022
WITH
WRIT PETITION NO. 9005 OF 2022
WITH
WRIT PETITION NO. 9002 OF 2022
WITH
WRIT PETITION NO. 8999 OF 2022
WITH
WRIT PETITION NO. 9013 OF 2022

WITH
WRIT PETITION NO. 9000 OF 2022
WITH
WRIT PETITION NO. 8986 OF 2022
WITH
WRIT PETITION NO. 9010 OF 2022
WITH
WRIT PETITION NO. 9004 OF 2022
WITH
WRIT PETITION NO. 8996 OF 2022
WITH
WRIT PETITION NO. 8987 OF 2022
WITH
WRIT PETITION NO. 8990 OF 2022
WITH
WRIT PETITION NO. 8985 OF 2022
WITH
WRIT PETITION NO. 8984 OF 2022
WITH
WRIT PETITION NO. 9008 OF 2022
WITH
WRIT PETITION (ST) NO. 7582 OF 2022
WITH
WRIT PETITION (ST) NO. 9386 OF 2022
WITH
WRIT PETITION NO. 2595 OF 2021
WITH
WRIT PETITION NO. 5209 OF 2021
WITH
WRIT PETITION (ST) NO. 11768 OF 2021
WITH
WRIT PETITION NO. 6758 OF 2021
WITH
INTERIM APPLICATION (ST) NO. 12559 OF 2022
IN
WRIT PETITION NO. 6758 OF 2021
WITH
WRIT PETITION NO. 8994 OF 2022
WITH
WRIT PETITION (ST) NO. 16266 OF 2021
WITH
WRIT PETITION (ST) NO. 16268 OF 2021
WITH

**WRIT PETITION (ST) NO. 17090 OF 2021
WITH
WRIT PETITION NO. 380 OF 2022
WITH
WRIT PETITION NO. 379 OF 2022
WITH
WRIT PETITION NO. 795 OF 2020
WITH
INTERIM APPLICATION (ST) NO. 12707 OF 2022
IN
WRIT PETITION NO. 795 OF 2020
WITH
WRIT PETITION NO. 8989 OF 2022**

Adv. Rohan Shah a/w Srisabari & Anveshikha Singh i/b Sharon Patole for Petitioners in Writ Petition Nos.8988 of 2022, 897 of 2022, 898 of 2022, 900 of 2022, 901 of 2022 and Writ Petition No.2595 of 2021.

Adv. Neeta Masurkar a/w Siddharth Chandrashekhar for Respondent No.3 in Writ Petition (ST) No.9386 of 2022.

Adv. Sham Walve a/w Sangeeta Yadav for Respondent No.4 in Writ Petition No.8988 of 2022.

Adv. Karan Adik a/w Ram Ochani for Respondents in Writ Petition Nos.8988 of 2022, 898 of 2022, 899 of 2022, 2261 of 2022, 8996 of 2022, 8990 of 2022, 8984 of 2022, 2595 of 2021, Writ Petition (ST) No.11768 of 2021, Writ Petition No.8994 of 2022, Writ Petition (ST) No.16268 of 2021, Writ Petition Nos.379 of 2022, 795 of 2020, 897 of 2022, 901 of 2022, 900 of 2022, 8998 of 2022, 8987 of 2022, 8985 of 2022, 5209 of 2021, 6758 of 2021, Writ Petition (ST) No.16266 of 2021, Writ Petition Nos.380 of 2022 and 795 of 2020.

Adv. Ram Ochani for Respondent No. 1 and 4 in Writ Petition Nos. 8998 of 2022, 9005 of 2022, 9002 of 2022, 8999 of 2022, 9013 of 2022, 9000 of 2022, 8986 of 2022, 9010 of 2022, 9004 of 2022 and 9008 of 2022.

Adv. P. P. Kakade GP with B.V. Samant, AGP for State in Writ Petition Nos.8988 of 2022, 897 of 2022, 898 of 2022, 901 of 2022, 899 of 2022, 900 of 2022, 2261 of 2022, Interim Application (ST) No.12543 of 2022, Interim Application (ST) No.12302 of 2021, Writ Petition No.5947 of 2021, Interim Application (ST) No.11544 of 2021, Writ Petition Nos.8998 of 2022, 9005 of 2022, 9002 of 2022, 8999 of 2022, 9013 of 2022, 9000 of 2022, 8986 of 2022, 9010 of 2022, 9004 of 2022, 8996 of 2022, 8987 of 2022, 8990 of 2022, 8985 of 2022, 8984 of 2022, 9008 of 2022, Writ Petition (ST) No.7582 of 2022, Writ Petition (ST) No.9386 of 2022, Writ Petition Nos.2595 of 2021, 5209 of 2021, Writ Petition (ST) No.11768 of 2021, Writ Petition No.6758 of 2021, Interim Application (ST) No.12559 of

2022, Writ Petition Nos.8994 of 2022, Writ Petition (ST) Nos.16266 of 2021, 16268 of 2021, 17090 of 2021, Writ Petition Nos.380 of 2022, 379 of 2022, 795 of 2020 and Interim Application (ST) No.12707 of 2022.

Adv. Neeta Masurker for Respondent No.3 in Writ Petition (ST) No.9386 of 2022.

Adv. Karan Adik, Maya Majumdar for Respondents in Writ Petition Nos.8998 of 2022, 9013 of 2022, 8986 of 2022, 9010 of 2022 and 8984 of 2022.

**CORAM : K. R. SHRIRAM &
A. S. DOCTOR, JJ.**

DATE : 27th July, 2022.

PG:-

1. Learned Advocate General appearing for Respondent-State submitted that the issues raised in these Petitions on the maintainability of the Petitions were considered by the co-ordinate Bench of this Court of the Hon'ble the Chief Justice and Mr. Justice N. B. Suryawanshi in *M/s Mestra A. G. Switzerland Vs. The State of Maharashtra & Ors.*¹. The learned Advocate General submitted that the Court felt that Petitioners should approach Appellate Authority under Section 27 of the MVAT Act.

2. We are bound by the findings in the said Judgment. Mr. Shridharan states that a Special Leave Petition has been preferred against the Judgment in *M/s Mestra A. G. Switzerland (supra)* and the Hon'ble Apex Court has, on 13th July, 2022, issued notice to Respondents returnable in 6 weeks.

3. In the circumstances, we dispose these Petitions with the directions as contained in paragraph Nos.27 and 28 of the Judgment in *M/s*

1. Writ Petition No.12297 of 2021, Judgment dated 16th February, 2022.

Mestra A. G. Switzerland (supra),, which read as under:

“27. However, in the peculiar facts and circumstances, viz. pendency of this writ petition on the file of this Court for quite some time and that a Constitutional issue touching Article 286 of the Constitution is sought to be raised, we are inclined not to relegate the petitioner to the first appellate remedy but to give it opportunity to prefer an appeal before the Tribunal directly, if it so chooses, so that any infirmity in the impugned order can be brought to its notice, including the decision of this Court in the case of Mahyco Monsanto Biotech (India) Pvt. Ltd. (*supra*), for its correction. It is ordered accordingly.

28. We make it clear that such appeal may not be entertained unless the requisite pre-deposit is made by the petitioner for preferring an appeal before the Tribunal. There is a statement in the writ petition that the requisite pre-deposit for approaching the first appellate authority has already been made. If indeed that is so, it would constitute half of the pre-deposit for filing an appeal before the Tribunal. The balance pre-deposit together with an acknowledgment of the amount of pre-deposit that has been made, may be filed along with any appeal that the petitioner may wish to prefer before the Tribunal. In the event the petitioner prefers an appeal before the Tribunal within six weeks from today, as prayed by Mr. Sridharan, limitation shall not be a bar for entertaining and trying such appeal on merits.”

4. In view of the intervening holidays in the next month, we grant 8 weeks to these Petitioners, instead of 6 weeks as mentioned in *M/s Mestra A. G. Switzerland (supra)*, from the date of uploading of this order on the official website of the High Court of Bombay. Liberty is given to Petitioners to approach this Court for reviving these Petitions should Petitioners succeed before the Hon’ble Apex Court.

5. Learned Advocate General assures the Court that as and when the matter is listed, the State will also appear and will not seek any adjournment.

6. Mr. Shah states, though tagged with the other Petitions, following Petitions will not be covered by the Judgment of this Court in *M/s*

Mestra A. G. Switzerland (supra). The following Petitions, therefore, be de-tagged and listed on 5th September, 2022:

Writ Petition No.8988 of 2022, Writ Petition No.6894 of 2019, Writ Petition No.2595 of 2021, Writ Petition No.897 of 2022, Writ Petition No.898 of 2022, Writ Petition No.899 of 2022, Writ Petition No.900 of 2022, Writ Petition No.901 of 2022 and Writ Petition (ST) No.17090 of 2021.

(A. S. DOCTOR, J.)

(K. R. SHRIRAM, J.)