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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13754 OF 2018

Larsen and Toubro Ltd. ... Petitioner
vs.
The State of Maharashtra ... Respondents
through the Government Pleader and Ors.
Mr. Prakash Shah i/b. PDS Legal for the Petitioner.
Mr. N. K. Rajpurohit, AGP for the State.

CORAM : NITIN JAMDAR AND
GAURI GODSE, JJ.
DATE : 16 DECEMBER 2022

P.C. :

Heard learned counsel for the parties.

2. In this Petition and group of other Petitions reference was made to the full bench on various issues. One of them was regarding the pre-condition incorporated under Section 26 of the Maharashtra Value Added Tax Act, 2002 for entertaining the Appeal before the First Authority.

3. The issue was regarding the implication of the amendment introduced by incorporating Sub Section 6A, 6B and 6C of Section 26 and explanation thereof. Reference made to the full bench of this court has been answered by Judgment and Order dated 12 July 2022. The full bench has inter alia held as under :

(v) It is declared that the explanation inserted in 2019 amendment w.e.f. 15th April, 2017 would apply to those orders which are passed after 15th April, 2017 and not to the prior orders. All earlier orders are governed by the original provisions of Section 26(6) and not by the amendment. Both the provisions i.e. old Section 26(6) and the amendment introduced by Sub Section 6A, 6B and 6C to Section 26 and the explanation thereto will apply and co-exist.

4. According to the Petitioner the amendment did not apply to the Petitioner as the order under challenge before the First Appellate Authority was passed prior to the amendment. Pending reference the Petitioner has already lodged appeal before the First Appellate Authority. The question whether the law declared by the full bench of this court as above is applicable to the case of the Petitioner on facts or not will have to be decided by the First Appellate Authority and therefore it is not necessary for us to keep the Petition pending any further. Since the Appeal has already been lodged before the First Appellate Authority the entertainability of the Appeal will be considered by the First Appellate Authority. In the light of the law laid down by the full bench of this court in the case of *United Projects vs. State of Maharashtra* (Writ Petition No. 2883 of 2018)

5. Writ Petition is disposed of.

(GAURI GODSE, J.)

(NITIN JAMDAR, J.)