IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 358 OF 2022
ALONGWITH
WRIT PETITION NO. 369 OF 2022
ALONGWITH
WRIT PETITION NO. 381 OF 2022

Marathon Nextgen Realty Ltd.
and Anr. ….Petitioners

V/s.
The State of Maharashtra and Ors. …Respondents

Mr. V. Sridharan, Senior Advocate a/w Mr. Rahul C. Thakar, Mr. Sahil Parghi and Mr. Kevin Shah i/b Mr. C. B. Thakar for Petitioners.
Ms. Jyoti Chavan, AGP for Respondents – State.
Mr. Kiran B. Shinde, Deputy Commissioner of Sales Tax (Appeal) – 3, Mumbai present.

CORAM : K.R. SHRIRAM &
A.S. DOCTOR, JJ.
DATED : 30th AUGUST 2022

P.C. :

1. Counsel suggested that Writ Petition No. 369 of 2022 be taken as lead petition.

2. After the petition was heard for some time, learned AGP on instructions from Mr. Kiran B. Shinde stated that the court may be pleased to, after keeping open rights and contentions of both petitioner as well as respondents, quash and set aside the impugned order dated 1st November 2021 and send it for *denovo* consideration.

Mr. Sridharan submitted that, that is what petitioner was asking right from the beginning.

3. In the circumstances, keeping open the rights and contentions of the parties, in particular petitioner's contention that once petitioner has discharged the arrears in dispute after availing waiver granted as per Section 26(6B) of the Maharashtra Value Added Tax, there can be no more assessment for the same period, the order dated 1st November 2021 is quashed and set aside and the matter is remanded to Respondent No.3 for *denovo* consideration.

Respondent No.3 shall consider all the grounds raised in the appeal and pass a reasoned order.

Before passing any such order, Respondent No.3 shall give a personal hearing and notice of personal hearing shall be given atleast seven working days in advance.

4. Mr. Sridharan states that during the personal hearing petitioner shall produce the documents and papers afresh in support of petitioner's claim so that Respondent No.3 can verify the claims which are disallowed in the impugned order. Respondent No.3 shall thereafter pass the order in accordance with law on merits as well as jurisdictional aspect raised by petitioner.

5. We make it clear that departmental representative can make submissions before Respondent No.3.

6. Ms. Chavan states that respondents will take further steps as available in accordance with law as regards the assessment orders passed. We do not wish to comment on this submission of Ms. Chavan.

7. Consequentially the impugned orders dated 1st November 2021 in Writ Petition No. 358 of 2022, Writ Petition No. 381 of 2022 and Writ Petition No.369 of 2022, respectively are also quashed and set aside on the same terms as mentioned above.

8. All petitions disposed.

(A.S. DOCTOR, J.) **(K.R. SHRIRAM, J.)**