IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

935 WRIT PETITION NO.11882 OF 2022

MOTOWALA INGRASTRUCTURE PVT. LTD. THROUGH
ITS DIRECTOR ZUBAIR A. MOTIWALA
VERSUS
STATE OF MAHARASHTRA THROUGH THE SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Alok Sharma
AGP for the respondent – State : Mr. S.G. Sangale
...

CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.

DATE : 31 AUGUST 2023

PC :

Heard learned advocate for the petitioner and learned AGP.

2. The petitioner is dealer in four wheeler motor vehicles and is challenging the final assessment order passed under section 23 of the Maharashtra Value Added Tax Act, 2002 for the assessment period 01-04-2017 to 30-06-2017 whereby the petitioner has been fastened with the liability to pay VAT on the RTO tax, registration charges, insurance premium charges and handling charges, by treating these charges as part of the sale price.

3. The parties are *ad idem* that the issue is pending in many matters across all the benches. Some matters were clubbed together by virtue of an administrative order and a Division Bench at the principal seat has disposed of those writ petitions by common order dated 12.04.2023 (writ petition no. 2512 of 2021 – ***Modi Car Agencies Pvt. Ltd. Vs. The State of Maharashtra and others*** with connected

matters). After considering the provision of section 55 of the Maharashtra Value Added Tax Act, 2002 and considering the decision of the tribunal in the matter of ***M/s. B.U. Bhandari Auto***, the order has been passed by the Division Bench. Paragraphs no. 11 to 13 read as under:-

> *11. In light of the above discussion, we dispose of the Writ Petitions by quashing and setting aside the impugned assessment orders in each of these Petitions. The assessment proceedings are restored to file before the concerned Commissioner of Sales Tax. The Commissioner would examine the issue pending before the Commissioner in light of the decision rendered by the Tribunal in the case of M/s. B.U. Bhandari Auto and in the context of the provisions of Section 55 of the Act referred to above and take the decisions as per law.*
>
> *12. We make it clear that we have not concluded on other aspects that may arise during the assessment proceedings other than the decision of the Tribunal in the case of M/s. B.U. Bhandari Auto and the Commissioner would examine the facts of each case and pass the order as per law. Needless to state, the contentions of the Petitioners and the department are expressly kept open.*
>
> *13. In the light of setting aside the impugned assessment orders as above, the consequential effects of the setting aside of the impugned orders would follow and be given effect to by the concerned.*

4. For the selfsame reason, we dispose of this writ petition with the afore-mentioned directions.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/