

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15709 OF 2023

Mohyco Monsanto Biotech (India) Pvt. Ltd. ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

Mr. Mihir Mehta a/w. Mr. Jas Sanghavi, Mr. Yash Prakash i/b. M/s. PDS
Legal for the Petitioner.

Ms. Shruti D. Vyas, Addl. G. P. a/w. Ms. P. J. Gavhane, AGP for
Respondent (State).

CORAM : G. S. KULKARNI,
JITENDRA JAIN, J.J.

DATE : 20th DECEMBER, 2023.

P.C. :-

1. Learned counsel for the Petitioner submits that the Petitioner had filed an appeal which came to be dismissed by the Appellate Authority on the ground that the Petitioner had not made pre-deposit. It is submitted that such order passed by the Tribunal cannot be sustained in view of pronouncement of the Judgment of the Supreme Court in the **The State of Telangana & Ors. Vs. Tirumala Constructions¹**, which has held that the amendment as brought about to the Maharashtra Value Added Tax Act, 2002 by incorporating the explanation below Sub-section

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(6C) of Section 26 was illegal and unconstitutional, such a pre-deposit cannot now be insisted. We find substance in the contention as urged on behalf of the Petitioner.

2. In this view of the matter, we quash and set aside the orders passed by the Tribunal dismissing the Petitioner's appeal for want of pre-deposit and restore the appeal of the Petitioner to the file of the Tribunal to be decided on its own merits. Ordered accordingly.

3. Needless to observe that the Petitioner would be entitled to move an application for interim relief in such appeal.

4. All contentions of the parties in that regard are expressly kept open.

5. Petition stands disposed of in the above terms. No costs.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]