

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5264 OF 2022

Mahyco Monsanto Biotech(India) Private Limited ... Petitioner

V/s.

The State of Maharashtra and ors.

... Respondents

Mr.Prakash Shah with Mr.Jas Sanghavi h/f M/s PDS Legal, Advocates
for the Petitioner.

Ms.Shruti D. Vyas, “B” Panel Counsel for the State.

**CORAM : NITIN JAMDAR AND
ABHAY AHUJA, JJ.
DATE : 29 MARCH 2023.**

P.C.:-

1. The petition was filed challenging the provisions of section 26(6B)(c) of the Maharashtra Value Added Tax Act, 2002 (“MVAT Act” for short) and the explanation added thereto and to direct the Appellate Authority of the Maharashtra Sales Tax Tribunal (“Tribunal” for short) to accept the appeal of the Petitioner without insisting on the pre-deposit as per the provisions of the impugned section. The challenge to the said provisions now stands concluded by the decision of the Full Bench of this court in the case of *United Projects Vs. The State of Maharashtra through Commissioner of Sales Tax and ors.*¹ The

¹ WP No.2883 of 2018 decided on 14-10-2019

learned counsel for the Petitioner submits that pre-deposit need not be insisted upon by the Appellate Tribunal because there is one more ground to that effect. Thus, there is an interim order passed by the Hon'ble Supreme Court in Petitioner's own case/proceedings is pending in the Hon'ble Supreme Court. The Petitioner had filed an appeal in view of the interim order passed by this court in this writ petition dated 2 May 2022.

2. As regards the issue whether pre-deposit is mandated or otherwise in the appeal that Petitioner has filed in order passed by the Hon'ble Supreme Court, the Petitioner has pointed out this facet to the Tribunal and the Tribunal by order dated 29 February 2022 has kept the appeal pending till disposal of the appeal pending before the Hon'ble Supreme Court. Therefore, in the light of this position, we do not deem it necessary to keep the petition pending. It is for the Tribunal to take a view whether pre-deposit is necessary in the light of the arguments made by the Petitioner regarding the interim order passed by the Hon'ble Supreme Court. In this regard, contentions of the parties are kept open.

3. Writ Petition is accordingly disposed of.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)

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