

Prajakta Vartak

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

**WRIT PETITION NO. 1763 OF 2020
AND
WRIT PETITION NO. 1764 OF 2020
AND
WRIT PETITION NO. 1765 OF 2020**

Mahavir Industries now known as
Flora Marmo Industries Pvt. Ltd. ..Petitioner
Vs.
The Union Territory of Dadra & Nagar
Haveli & Ors. ..Respondents

Mr. Rahul C. Thakar i/b. Mr. C. B. Thakar for Petitioner.
Mr. Hiten Venegaonkar for Respondents.

**CORAM : G. S. KULKARNI &
JITENDRA S. JAIN, JJ.
DATE : JUNE 26, 2023**

P.C.:

1. By these petitions filed under Section 226 of the Constitution of India, the petitioner has prayed for the following reliefs:-

“(a) that this Hon’ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner’s case and after going into the validity and legality thereof to quash and set aside the impugned Order dated 11.12.2018 passed by the Respondent No. 2;

(b) that This Hon’ble Court be pleased to issue a writ of Mandamus or a writ in the nature of Mandamus or any other appropriate writ or order or direction under Article 226 of the

Constitution of India ordering and directing the Respondents themselves, their officers and subordinates (I) to withdraw and/or cancel the impugned Order dated 11.12.2018 passed by the Respondent No.2; and (II) to refrain from taking any steps or proceedings in pursuance of and/or in furtherance of and/or in implementation of impugned Order dated 11.12.2018 passed by the Respondent No.2;

(c) that pending the hearing and final disposal of this Petition, the Respondents by themselves, their officers, subordinates, servants and agents be restrained by an interim order and injunction of This Hon'ble Court from taking any steps or proceedings in pursuance of and/or in furtherance of and/or in implementation of impugned Order dated 11.12.2018 passed by the Respondent No.2;

(d) that This Hon'ble Court be pleased to issue a writ of Mandamus or a writ in the nature of Mandamus or any other appropriate writ or order or direction under Article 226 of the Constitution of India declaring that the Petitioner is eligible to avail the benefits of the exemption granted vide Notification No. DNH/CST/4-1/99/4 dated 31.12.1999 and Notification No. ADM/LAW/CSR/2/84 dated 04.01.1984 without the production of C Forms;

(e) that This Hon'ble Court be pleased to declare that the interest is waived and no interest is payable by petitioner."

2. Mr. Thakar, learned counsel for the petitioner has drawn our attention to the judgment and order dated 30 August, 2012 passed by a co-ordinate bench of this Court in case of ***Prism Cement Ltd. & Anr. Vs. State of Maharashtra and Ors.***¹ rendered in Writ Petition No.6475 of 2009, to the order passed on Writ Petition No.2988 of 2003 (***Voltas Ltd. and Anr. Vs. Commissioner of Sales Tax, Dadra & Nagar Haveli, Silvassa and Ors.***) dated 03 September, 2012, as also to another order of even

¹ 2012 54 VST 104 (Bom)

date in case of *Universal Comfort Products Pvt. Ltd. & Anr. Vs. Commissioner of Sales Tax, Dadra & Nagar Haveli, Silvassa & Ors.* in Writ Petition No. 2989 of 2003 to contend that the issue as arising in the present petitions is squarely covered by the decision in *Prism Cement Ltd. & Anr. Vs. State of Maharashtra and Ors.* (supra) as also in cases of *Voltas Ltd. and Anr. Vs. Commissioner of Sales Tax, Dadra & Nagar Haveli, Silvassa and Ors.* (supra) and *Universal Comfort Products Pvt. Ltd. & Anr. Vs. Commissioner of Sales Tax, Dadra & Nagar Haveli, Silvassa & Ors.* (supra).

3. As the present petitions also are against the respondent-Union Territory of Dadra & Nagar Haveli, we may note the orders passed by the Division Bench in *Voltas Ltd. and Anr. Vs. Commissioner of Sales Tax, Dadra & Nagar Haveli, Silvassa and Ors.* (supra) by which the Division Bench disposed of the said case following the decision in case of *Prism Cement Ltd. & Anr. Vs. State of Maharashtra and Ors.* (supra). The said order reads thus:-

“1. This petition was admitted on 25th April, 2003. In this petition, the petitioners have challenged the validity of the Circulars at Exhibits S, U, V & W to the petition. Counsel for the parties state that this Court in the case of Prism Cements Ltd. V/s. State of Maharashtra & Ors. in Writ Petition No.6475 of 2009 decided on 30th August, 2012 has quashed similar circulars issued by the Commissioner of Sales Tax, State of Maharashtra. For the

reasons stated in the aforesaid decision, Rule is made absolute in terms of prayer clause c(i).

2. The petition is disposed of with no order as to costs.”

4. Mr. Thakar has also drawn our attention to another order of a recent origin passed by a co-ordinate bench of this Court (K. R. Shriram & A. S. Doctor, JJ) in case of *Technithon Technologies Pvt Ltd. Formerly Known As Chemithon Engineer Pvt. Ltd. Vs. The Union Territory of Dadra and Nagar Haveli & Ors.*, Writ Petition No. 1761 of 2020, wherein considering a similar challenge as raised by the petitioners, the Division Bench allowed the said petition in terms of the decision of the Division Bench in *Prism Cement Ltd. & Anr. Vs. State of Maharashtra and Ors.* (supra) and *Voltas Ltd. and Anr. Vs. Commissioner of Sales Tax, Dadra & Nagar Haveli, Silvassa and Ors.* (supra).

5. It is pointed out that the decision of the Division Bench of this court in *Prism Cement Ltd. & Anr. Vs. State of Maharashtra and Ors.* (supra) is assailed before the Supreme Court by the Union Territory of Dadra and Nagar Haveli Administration, however, as observed by this Court in its order disposing of the proceedings in *Technithon Technologies Pvt Ltd. Formerly Known As Chemithon Engineer Pvt. Ltd. Vs. The Union Territory of Dadra and Nagar Haveli & Ors.* (supra) and as

stated by Mr. Venegaonkar, learned Counsel for the respondents, there is no stay to the judgment and order passed by this Court in *Prism Cement Ltd. & Anr. Vs. State of Maharashtra and Ors.* (supra).

6. We accordingly allow the present petition in terms of the judgment of the Division Bench of this Court in *Prism Cement Ltd. & Anr. Vs. State of Maharashtra and Ors.* (supra).

7. Disposed of in the above terms. No costs.

[JITENDRA S. JAIN, J.]

[G. S. KULKARNI, J.]