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

WRIT PETITION NO. 3028 OF 2019

Kalyani Technoforge Ltd. and Anr. … Petitioners

V/s.

The State of Maharashtra and Ors. ... Respondents

Mr. Rohan P. Shah with Shriraj Dhruv, Srisabari Rajan, Bhanu Shree Jain and Keya Raval i/b. Dhru & Co. for the Petitioners
Mr. Ranjeev Carvalho i/b, Ms. Sabeena Mahadik and Pankaj Uttaradhi for the Respondent No.2
Mr. D.B. Deshmukh with Mr. Ashutosh Mishra i/b. Jitendra B. Mishra for Resolution No.3
Mr. V.A. Sonpal, Special Counsel with Mr. Milind More, Addl.G.P. for the Respondent - State

CORAM : NITIN JAMDAR & ABHAY AHUJA, JJ.

DATE : 07 FEBRUARY 2023

P.C. **:-**

Heard the learned Counsel for the parties.

2. The matter was heard on 3 February 2023 and it was adjourned at the request of the learned Counsel for the Petitioner to take instructions as we find that the order impugned in this Petition passed by the Central Sales Tax Appellate Authority dated 3 October

2019 does not fasten any liability on the Petitioner. After considering the conspectus, the Tribunal has observed thus :-

> *" We have considered the relevant facts, legal provisions and judgments and come to a conclusion that at Manesar Branch of the appellant, the goods are not subjected to any manufacturing process. We have not been shown on consideration of what facts, law and judgments the Haryana Excise and Taxation department has concluded that the transactions in question are manufactured and the sales are local sales. We are therefore no impressed by this circumstance. We are also no inclined to go into the question whether mala fides could be imputed to the appellant. In the circumstances of the case, the order of interest does not deserve to be disturbed. The appellant claims that it has paid VAT to the tune of Rs.3,78,89,499/- to the State of Haryana. In the view that we have taken, if indeed the appellant has paid the above mentioned amount as VAT to the State of Haryana, after ascertaining the exact VAT paid to it, the State of Haryana must in terms of Section 22(1B) of the CST Act transfer the said amount to the State to which it is due. We order accordingly."*

Therefore, the direction is to the Respondent - State of Haryana. The Central Tribunal, proceeding on the basis that the Petitioner has paid the amount of VAT to the State of Haryana has left it to the Respondent - State of Maharashtra to collect the same from the State of Haryana. Therefore, under the impugned order passed, there is no liability on the Petitioner. Thus, we find that the debate on the legal issue in this Petition is academic.

3. The learned Counsel for the Petitioner submits that the reasoning adopted by the Tribunal in the impugned order may be applied against the Petitioner in the other years of assessment. This however is a future contingency. The same can be redressed by a clarification. It is clarified that if an adverse order is passed on the subject against the Petitioner in future, and the Petitioner seeks to challenge the same, the issues raised in the Petition are kept open including the issue of binding nature or otherwise of the reasoning/ratio of the Central Sales Tax Appellate Tribunal on the State Tribunal/ Authorities.

4. With this clarification, the Writ Petition is disposed of.

5. Needless to state that if the parties have any claims, other than the one under challenge in this Petition, it is open to the parties to take such steps as are warranted in law and on facts.

ABHAY AHUJA, J. ***NITIN JAMDAR, J.***