



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

(404) WRIT PETITION NO.7603 OF 2023

Chavan Motors Division India Private LimitedPetitioner

V/s.

State of Maharashtra and Ors.Respondents

AND

(405) WRIT PETITION NO.7604 OF 2023

Chavan Auto Wheels Private LimitedPetitioner

V/s.

State of Maharashtra and Ors.Respondents

AND

(406) WRIT PETITION NO.7605 OF 2023

Chavan Automobiles – Chavan Motor EngineeringPetitioner

V/s.

State of Maharashtra and Ors.Respondents

AND

(407) WRIT PETITION NO.7606 OF 2023

Chavan Motors Division India Private LimitedPetitioner

V/s.

State of Maharashtra and Ors.Respondents

AND

(408) WRIT PETITION NO.7607 OF 2023

Chavan Automobiles – Chavan Motor EngineeringPetitioner

V/s.

State of Maharashtra and Ors.Respondents

Mr. Manohar Samal for petitioner.

Ms. Shruti D. Vyas, Addl. GP a/w. Ms. Dhruti Kapadia, AGP for respondents
– State.

**CORAM : K.R. SHRIRAM &
JITENDRA JAIN, JJ.**

DATED : 24th JUNE 2024

P.C. :

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AND

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1 Mr. Samal states that the prayers sought in these petitions have to be granted in view of the judgment of this Court in *Modi Car Agencies Pvt. Ltd. v/s. The State of Maharashtra and Ors*¹. Mr. Samal states that in view of the judgment in *Modi Car Agencies Pvt. Ltd.* (Supra), the impugned order dated 28th February 2023 be quashed and set aside and the matter be remanded to respondent no.3 for *denovo* consideration. Mr. Samal also states that respondent no.3 be also directed to dispose the review proceedings by applying the law as laid down by this Court in *Modi Car Agencies Pvt. Ltd.* (Supra).

2 Ms. Vyas states that she has no instructions whether *Modi Car Agencies Pvt. Ltd.* (Supra) has been challenged in the Hon'ble Apex Court. Ms. Vyas further states that the Court may pass orders as suggested by Mr. Samal, but in case *Modi Car Agencies Pvt. Ltd.* (Supra) is challenged and the Hon'ble Apex Court holds in favour of the Revenue, liberty be granted to the Revenue to reopen the case on the basis of the law as would be laid down by the Hon'ble Apex Court.

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3 Accordingly, in view of the law as laid down by this Court in *Modi Car Agencies Pvt. Ltd.* (Supra), all petitions are allowed in terms of prayer clauses – (a) and (b) which read as under :

(a) This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other Writ or order or direction in the nature of Mandamus under Article 226 of the Constitution of India, to quash and set-aside the Review Order passed by Respondent No.3 which has levied MVAT on registration charges, hypothecation charges, handling charges and insurance charges even though such charges are beyond the scope of sales price under the MVAT Act, 2002.

(b) This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other Writ or order or direction in the nature of Mandamus under Article 226 of the Constitution of India, directing Respondent No.4 to give effect to the Judgment of the Maharashtra Sales Tax Tribunal, Pune in B.U. Bhandari Auto (supra).

As regards prayer clause – (c) is concerned, respondent no.3 shall decide the same in the review application after examining the facts of each case.

4 It is clarified that if incase the law as laid down by this Court in *Modi Car Agencies Pvt. Ltd.* (Supra) is set aside, it goes without saying that the Revenue may take such steps as advised, including reopening, in accordance with law.

5 Petitions disposed accordingly.

WRIT PETITION NO.7608 OF 2023

6 Since this petition is not listed on board today, by consent of the parties taken up for final disposal.

7 In view of the above order passed by this Court in Writ Petition No.7603 of 2023 alongwith other writ petitions, which will be squarely applicable to the facts of this petition as well, this petition also stands disposed in terms of prayer clauses – (a) and (b) which read as under :

(a) This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other Writ or order or direction in the nature of Mandamus under Article 226 of the Constitution of India, to quash and set-aside the Review Order passed by Respondent No.3 which has levied MVAT on registration charges, hypothecation charges, handling charges and insurance charges even though such charges are beyond the scope of sales price under the MVAT Act, 2002.

(b) This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other Writ or order or direction in the nature of Mandamus under Article 226 of the Constitution of India, directing Respondent No.4 to give effect to the Judgment of the Maharashtra Sales Tax Tribunal, Pune in B.U. Bhandari Auto (supra).

As regards prayer clause – (c) is concerned, respondent no.3 shall decide the same in the review application after examining the facts of each case.

8 It is clarified that if incase the law as laid down by this Court in *Modi Car Agencies Pvt. Ltd.* (Supra) is set aside, it goes without saying that

the Revenue may take such steps as advised, including reopening, in accordance with law.

(JITENDRA JAIN, J.)

(K.R. SHRIRAM, J.)