IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11074 OF 2025

Benteler Automotive (China) Investment Ltd .. Petitioner

Versus

Assistant Commissioner of
Income-tax (IT), Circle 1, Pune & Ors .. Respondents

Mr. Ravi Sawana, *with Neha Sharma i/b Sriram Sridharan, Advocates for the Petitioner.*

Mr.A. K. Saxena, *Advocates for the Respondents/Revenue.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.

DATE: AUGUST 25, 2025

P. C.

1. The above Writ Petition is filed seeking a declaration that the consideration received / receivable by the Petitioner from its Indian Subsidiary Benteler India Pvt Ltd (for short ***"Benteler"***) pursuant to the Service Agreement (***"Exhibit-B"***), is not taxable in India. The further relief sought is to quash and set aside the impugned order dated 1st August 2025 and direct the Respondents to issue a Certificate "for a Nil deduction of tax at source" under Section 197 of the Income Tax Act, 1961 as prayed for by the Petitioner in its application dated 1st July 2025.

2. The above Writ Petition has been filed on 7th August 2025. When it came up on 18th August 2025, we noted the submission of the Petitioner that as and by way of ad-interim relief, this Court may direct that the Indian subsidiary of the Petitioner can make payment to the Petitioner without deducting any tax with an undertaking to the Court that in the event the Petition fails, the Indian subsidiary of the Petitioner will pay the tax. The learned advocate appearing on behalf of the Revenue, on 18th August 2025, took time to take instructions on this aspect and also to file the affidavit in reply. It is for this reason that the above matter was placed on Board today.

3. Today when the matter is called out, the learned advocate appearing on behalf of the Revenue submitted that there is no question of granting any interim or ad-interim relief in the above Writ Petition because in the last for approximately 10 years, the Indian subsidiary of the Petitioner has been deducting tax and thereafter making payment to the Petitioner. There is absolutely no reason why the aforesaid practice should be interfered with at this stage. We find considerable force in the argument canvassed on behalf of the Revenue. In the event any tax is deducted by the Indian subsidiary before making payment to the Petitioner, the Petitioner can always claim a refund of the same from the department, and which practice has been

followed by the Petitioner for earlier years. We, therefore, find that no case is made out for any ad-interim relief.

4. We must mention that the issue raised in the present Petition has also been raised in three earlier Writ Petitions. However, they were rendered infructuous by efflux of time. In fact, the last Writ Petition [W.P.No.10076 of 2024] was withdrawn before this very Bench because it was rendered infructuous by the efflux of time without deciding the issues raised in the said Writ Petition. We do not want the same situation to arise in the present Writ Petition. We, therefore, direct that the Respondents shall file their affidavit in reply to the above Writ Petition within a period of two weeks from today and serve a copy of the same on the advocates for the Petitioner.

5. We make it clear that if the reply is not filed as directed above, we shall then proceed to decide the above Writ Petition on the basis of the replies filed by the Respondents in Writ Petition No.10076 of 2024, and which are already annexed to the present Petition.

6. We now place the above matter on 15th September 2025 at 3.00 p.m. for admission.

7. We have put the parties to notice that we will dispose of the Writ Petition at that stage itself.

8. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**