Sayali

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

SAYALI DEEPAK UPASANI

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Date: 2025.09.25 19:41:29 +0530

MAHARASHTRA VALUE ADDED TAX APPEAL NO. 15 OF 2025

The Additional Commissioner of Sales Tax VAT-I. M.S. Mumbai …Appellant

Versus

M/s. Finolex Industries Ltd …Respondent

Mr Himanshu Takke, AGP, for State of Maharashtra for Appellant.

CORAM: M.S. Sonak &
Advait M. Sethna, JJ.

DATED: 25 September 2025

PC:-

1. Heard Mr. Takke, learned Counsel for the Appellant.

2. Mr. Takke submits that the main issue involved in this Appeal is whether the Respondent - Assessee was entitled to full exemption or pro rata exemption given the retrospective amendment to Section 93 and the insertion of Section 93-A in the MVAT Act, 2002.

3. Upon perusing the Appeal memo and the impugned judgment and order, we agree that the above issue is the only significant issue that arises in this Appeal.

4. However, we find that the above issue was considered by the Co-ordinate Bench in the case of **the Additional Commissioner of Sales Tax, VAT-I, M.S. Mumbai Vs. Garware Polyster Ltd**[1] which was disposed of on 01 November 2023, wherein, the Co-ordinate Bench, has not accepted the contention now raised by Mr. Takke in support of this application.

5. The relevant observations in paragraph Nos. 4 and 5 read as follows:-

> "…
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> 4. The issue involved is short. The issue is whether respondent is entitled to full exemption or pro-rata exemption. If, pro-rata has to be applied, we have to consider only Section 93(1) of the MVAT Act which also is applicable only where the eligibility certificate and certificate of entitlement has been granted to an eligible unit on account of increase in production capacity, or as the case may be, acquisition of new fixed capital assets. It is not appellant's case that the eligibility certificate or certificate of entitlement has been issued to respondent on account of increase in production capacity, or as the case may be, acquisition of new fixed capital assets.
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> 5. Respondent is claiming exemption and has been granted exemption earlier as per notification issued under Section 8(5) of the CST Act and as per the 1993 package scheme of incentives. Admittedly, there is no provision for reduction of exemption either under the 1993 package scheme of incentives or under the CST Act. This has not been referred to either by the Assessing Authority or Joint Commissioner of Sales Tax (Appeal) Aurangabad. It is also not in dispute that the notification issued under Section 8(5) of CST Act in the year 1980 is not amended / modified / withdrawn at any point of time. Therefore, the Tribunal was correct in holding that the pro-rata exemption granted was not correct and respondent was entitled to 100% exemption. In our view, Section 93 of MVAT Act also will not be applicable to the facts in hand for the reasons mentioned above.
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> …"

[1] MVAT Appeal (L) No.12814 of 2022

6. Therefore, by following the decision of the co-ordinate Bench in the case of *Garware Polyster Ltd* (supra), we decline to admit this Appeal.

7. This Appeal is dismissed without any costs order.

(Advait M. Sethna, J) **(M.S. Sonak, J)**