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

WRIT PETITION NO. 5048 OF 2025

President Trade And Exim Corporation
H/5, Gupta Warehousing Complex,
Mankoli Village, Dapode, Bhiwandi- 421302 ...Petitioner

Versus

1. The State of Maharashtra
Through Government Pleader,
Original Side, Bombay High Court.
2. The Assistant Commissioner of State Tax,
MUM-VAT-D-814, GST Bhavan, Mazgaon,
Mumbai.
3. The Joint Commissioner of State Tax
Nodal Division-01, E-12, 5th Floor,
New Building, GST Bhavan, Mazgaon,
Mumbai.
4. The Commissioner of State Tax
(Maharashtra), 8th Floor, GST Bhavan,
Mazgaon, Mumbai. ...Respondents

Mr. Manohar Samal a/w. Ms. Ruchi Rathod and Ms. Aishwarya Jain i/b. Mr. Ratan Samal, for Petitioner.

Ms. Naira Jeejeebhoy, Spl.Counsel a/w. Ms. Jyoti Chavan, Addl.G.P. and Mr. Amar Mishra, AGP for Respondent – State.

CORAM : G. S. KULKARNI &
AARTI SATHE, JJ.

RESERVED ON : 12 FEBRUARY 2026
PRONOUNCED ON : 12 MARCH, 2026

JUDGMENT:- (PER : AARTI SATHE, J)

1. Rule. Rule made returnable forthwith. By consent of the parties, taken up for final hearing at the stage of admission.

2. By this Petition under Article 226 of the Constitution of India, the Petitioner seeks to challenge the settlement order dated 18th April 2024 passed by Respondent No. 2 whereby the refund for the tax period 2007–08 has been adjusted against the tax demand for the tax period 2008–09. According to the Petitioner, such adjustment has been made despite there being no pending dues for recovery, by invocation of the proviso to Section 50(1) of the Maharashtra Value Added Tax Act, 2002 ("MVAT Act") which is wholly unjustified.

3. It would be convenient to reproduce the prayers as sought for in the present the Petition:

> "*a. This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or direction in the nature of Mandamus under Article 226 of theConstitution of India, setting- aside and annulling the Settlement Order which was issued after the adjustment of refund for Tax Period: 2007-08 against Tax Period:2008-09 ignoring the fact that there were no pending "dues for recovery' so as to justify invocation of refund adjustment under the Proviso appended to Section 50(1) of the MVAT Act, 2002 as the Petitioner had already made an application for availing benefits under the Maharashtra Settlement of Arrears of Tax, Interest,Penalty or Late Fees Act, 2023 before issuance of the refund adjustment order.*
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> *b. This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or direction in the nature of Mandamus under Article 226 of theConstitution of India, setting- aside and annulling the setting- aside and annulling the Settlement Order which was issued after the adjustment of refund for Tax Period: 2007-08 against Tax Period: 2008-09 without issuance of any defect notice and after the Petitioner had already made an application and had also paid the settlement dues under the Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fees Act, 2023 as per instructions received in the Courtesy Letter issued by Respondent No. 2.*
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> *c. This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or direction in the nature of Mandamus under Article 226 of the Constitution of India, setting- aside and annulling the setting- aside and annulling the Settlement Order which was issued after the adjustment of refund for Tax Period:2007-08 against Tax Period: 2008-09 ignoring that the provisions of the Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fees Act, 2023 would override the provisions of the MVAT Act, 2002 once an application has been made under the Scheme and no*

deficiency by way of Defect Notice has been issued.

d. *This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or direction in the nature of Mandamus under Article 226 of the Constitution of India, setting- aside and annulling the Settlement Order which was issued after the adjustment of refund for Tax Period: 2007-08 against Tax Period:2008-09 without providing a reasonable opportunity of being heard resulting in grave violation of principles of natural justice.*

e. *This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or direction in the nature of Mandamus under Article 226 of theConstitution of India, directing Respondent Nos. 2 to issue a fresh Settlement Order for Tax Period: 2008-09after considering the payment made by the Petitioner as per the Courtesy Letter issued by Respondent No. 2 sans refund adjustment.*

f. *This Hon'ble High court may be pleased to Issue any other Writ, order or direction that this Hon'ble Court may deem fit in the circumstances of the case.*

g. *Pending the present Writ Petition, ad interim relief in terms of prayer (a) to (g) may be granted as the court deems fit."*

4. Briefly the facts are as follows:-

i. The Petitioner is a proprietorship concern engaged in the business of resale, distribution, and wholesale trade of paper and paper-based products. The Petitioner is a registered dealer under the MVAT Act.

ii. Investigation was initiated against the Petitioner for the tax periods 2007–08, 2008–09, and 2009–10, alleging that the Petitioner had claimed ineligible Input Tax Credit (ITC).

iii. During the course of investigation, the Petitioner paid an additional amount of Rs. 10 lakhs and filed revised returns. Pursuant thereto, recovery proceedings and provisional bank attachment proceedings were initiated by the Sales Tax Department. The Petitioner filed a representation challenging the said attachment and recovery proceedings. As no action was taken on the

representation, the Petitioner approached this Court by filing Writ Petition No. 1602 of 2009. By an order dated 28th January 2009, this Court directed Respondent No. 4 to consider the Petitioner's representation within four weeks and communicate the decision thereof within a week. Thereafter, Respondent No. 4 rejected the representation and confirmed the recovery as well as the provisional bank attachment proceedings.

iv. Being aggrieved, the Petitioner preferred an Appeal before the Maharashtra Sales Tax Tribunal, Mumbai. The Tribunal set aside the provisional bank attachment proceedings.

v. The Department challenged the said order of the Tribunal before this Court by filing Sales Tax Appeal No. 7 of 2009. By an order dated 15th January 2010, this Court permitted the Sales Tax Department to withdraw the Appeal on the basis of an undertaking furnished by the Petitioner and directed the Department to conduct an assessment in accordance with the provisions of the MVAT Act.

vi. Pursuant to the order by this Court dated 15th January 2010 the Sales Tax Department initiated assessment proceedings for the Tax Period 2007-2008 and on 15th July 2010 the assessment order for Tax period 2007-2008 was passed by the Assistant Commissioner of Sales Tax (INV-02), Investigation -A, Mumbai wherein ITC to the extent of Rs.1,01,18,336/- was allowed to the Petitioner and the remainder amount was disallowed.

vii. The assessment order for the tax period 2007–08 resulted in a demand of Rs. 99,28,781/-. However, considering that the Petitioner had paid an amount of Rs. 10,00,000/- during the course of investigation and further taking into account set-off of Rs. 1,01,18,336 and excess tax paid against sales by way of adjustment of Rs. 17,94,906/-, the Petitioner became entitled to a refund of Rs. 27,74,386/- for the tax period 2007–08, after deduction of interest and penalty.

viii. Subsequently, assessment orders were also passed for the tax periods 2008–09 and 2009–10, which resulted in demands towards tax, interest, and penalty being payable by the Petitioner.

ix. Being aggrieved by the quantum of refund determined for the tax period 2007–08, the Petitioner preferred an Appeal before the Deputy Commissioner of State Tax (Appeals), CST-APP-E-005. By an order dated 10th May 2023, the Deputy Commissioner of State Tax (Appeals) sanctioned an enhanced refund of Rs. 33,29,000/- to the Petitioner for the tax period 2007–08.

x. The Petitioner, being aggrieved by the assessment orders passed for the tax periods 2008–09 and 2009–10 preferred Appeals before the respective Appellate Authorities. The Appellate Authorities passed orders dated 10th May 2023 (for tax period 2008–09) and 13th June 2023 (for tax period 2009–10). As the Petitioner noticed mistakes apparent on the face of the record in the appellate orders for the tax periods 2008–09 and 2009–10, rectification applications were filed against the said orders.

xi. During the pendency of the rectification applications for the tax periods 2008-09 and 2009-10 the Maharashtra Settlement of Arrears of Tax, Interest,

Penalty or Late Fee Act, 2023 (hereinafter referred to as the "Settlement Act") was introduced by Respondent No. 1 in the form of the Amnesty Scheme, 2023, providing for settlement of disputes under various indirect tax legislations, including the MVAT Act.

xii. Respondent No. 4 issued Trade Circular No. 11T of 2023 dated 26th June 2023, clarifying that disputes under the MVAT Act could be settled by payment of the requisite amounts specified under the Settlement Act, for each tax period individually and separately. Upon satisfaction of the prescribed conditions, including payment of the requisite amount, the pending litigation would stand settled and the balance dues would be waived, culminating in issuance of a Settlement Order.

xiii. Pursuant to the aforesaid Settlement Act, Respondent No. 2 issued Courtesy Letters stipulating the amounts payable by the Petitioner for availing the benefit of the Scheme for the tax periods 2008–09 and 2009–10. Insofar as the tax period 2007–08 was concerned, since the Petitioner was entitled to a refund, no Courtesy Letter was issued in respect thereof.

xiv. The Petitioner, by letters dated 10th May 2023, 24th November 2023, 7th December 2023 and 9th January 2024, repeatedly requested Respondent No. 2 to give effect to the appellate order dated 10th May 2023 passed for the tax period 2007-08 and to issue the refund as determined therein.

xv. In respect of the tax periods 2008–09 and 2009–10, the Petitioner opted to avail the benefit of the Settlement Act. Accordingly, the Petitioner submitted an application for the tax period 2008–09 under the said Act. Upon such application,

an acknowledgment dated 23rd August 2023 was generated by the Sales Tax Department, determining the requisite amount payable by the Petitioner at Rs. 9,12,887/- under the One Time Payment Option.

xvi. It is the Petitioner's case that under the One Time Payment Option, where the disputed tax amount is below Rs. 50,00,000/-, the Scheme envisages payment of 20% of the disputed amount with waiver of the remaining 80% of the dues. The relevant portions of the One Time Payment Option as per Trade Circular No.11T of 2023 and Annexure 'A' to the Settlement Act are reproduced below:

Relevant Portion of Trade Circular No. 11T of 2023

> *9.2. The Settlement Act provides for three payment options:*
>
> *(1) Lump-sum payment Option:*
>
> *(a) In the cases where the outstanding dues on account of tax, interest, penalty and late fee as per any statutory order are Rupees Fifty lakh or less, then, an applicant may opt to pay lump-sum at 20 per cent. of the outstanding dues. Upon payment of 20 percent. of the outstanding dues, the balance 80 per cent. dues shall be waived.*
>
> *(b) For this purpose, the arrears as on 1st May 2023 would have to be taken into account. Arrears as on 1st May 2023 shall be calculated as explained in preceding Paragraphs. For example, if dues as per statutory order passed on 31st March 2018 for the period 2013-14 are Rs.55,50,000/- and if the dealer has paid Rs.10,50,000/- in appeal or otherwise, on or before the 30th April 2023, then the outstanding dues as on 1st May 2023 would be at Rs.45,00,000/-.These dues of Rs. 45,00,000/- being less than Rupees Fifty lakh the dealer under such scenario shall be eligible to opt for the lamp*
>
> *(2) One Time payment option: This Act provides for One Time payment for making payment of the requisite amount to avail the benefit of settlement of arrears.*
>
> *(3) Instalment Option:*
>
> *(a) However, in case the arrears are in excess of rupees fifty lakh then the applicant may opt to pay under the Instalment option.i arrears as per any statutory order or as per recommendation of auditor are in excess of rupees fifty lakh then Instalment option available.*
>
> *(b) The instalment option is also available, in case the return dues of one Financial year are in excess of fifty lakh and if a single application is preferred for such return dues of multiple periods within the same financial year.*
>
> *9.3. Where, the dealer desires to settle the arrears under option of One Time Payment or, as the case may be, under Instalment option, then the dealer shall*

be required to determine the requisite amount to be paid and the extent of the waiver available as provided in the Annexure-A and Annexure-B.

Relevant Portion of Annexure 'A' of the Settlement Act

Sr. No.	*Amount*	*One Time Payment option*		*Installment option*	
		Amount to be paid	*Amount of waiver*	*Amount to be paid*	*Amount of waiver*
(a)	*(b)*	*(c)*	*(d)*	*(e)*	*(f)*
(7)	*Where amount of arrears as per any-statutory order is of rupees fifty lakh or less, applicant may opt for lump sum payment instead of determining requisite amount as per Sr. Nos. (1) to (4) and (6) above.*	*twenty per cent. of the amount in column (b)*	*eighty per cent. of the amount in column (b) alongwith post assessment interest or penalty or both leviable under the Relevant Act but not levied upto the date of application.*	*Not Applicable*	*Not Applicable*

xvii. Similarly, for the tax period 2009–10, the Petitioner submitted an application under the One Time Payment Option and paid an amount of Rs. 6,30,633/-. An acknowledgment dated 22nd August 2023 was generated in respect of the tax period 2009–10.

xviii. It is not in dispute that no defect notice, as contemplated under Section 13 of the Settlement Act, was issued in respect of the applications for the tax periods 2008–09 and 2009–10. Therefore, in terms of Section 13, the settlement orders were required to be passed within three months from the date of the respective applications. As no settlement orders were issued even after expiry of

the said period and in the absence of any defect notice, the Petitioner made repeated requests seeking issuance of settlement orders for the tax periods 2008–09 and 2009–10.

xix. It is the Petitioner's contention that, the refund determined for the tax period 2007–08 was not being processed, and at the same time, settlement orders for the tax periods 2008-2009 and 2009–10 were also not being issued.

xx. On account of such inaction on the part of Respondent Nos. 2 and 3, the Petitioner filed three Writ Petitions before this Court for the respective tax periods, namely:

1. W.P. (L) No. 12472 of 2024 (Tax Period 2007–08),

2. W.P. (L) No. 12474 of 2024 (Tax Period 2008–09), and

3. W.P. (L) No. 12475 of 2024 (Tax Period 2009–10).

However, W.P. (L) No. 12472 of 2024 and W.P. (L) No. 12474 of 2024 were dismissed on 12th December 2025, and W.P. (L) No. 12475 of 2024 was dismissed on 15th December 2025 on account of non-removal of office objections under Rule 986 of the Bombay High Court (Original Side) Rules, 1980. After filing of the aforesaid Petitions, a Settlement Order dated 16th April 2024 was passed for the tax period 2009–10.

xxi. Thereafter, on 18th April 2024, Respondent No. 2 passed a Settlement Order under Section 13(1) of the Settlement Act, whereby the refund amount of Rs. 33,29,000/-, determined as payable to the Petitioner for the tax period 2007–08, was adjusted against alleged pending dues for the tax period 2008–09

(hereinafter referred to as the "impugned order").

xxii. It is this Settlement Order dated 18th April 2024, which is impugned in the present Petition.

5. We have heard learned counsel Mr. Manohar Samal and Mr. Ratan Samal on behalf of the Petitioner and learned counsel Ms. Naira Jeejeebhoy, Ms. Jyoti Chavan, and AGP Mr. Amar Mishra on behalf of the Respondents.

6. In the backdrop of the above factual position as stated above, the short issue which has arisen for consideration in the present proceedings is whether by the impugned order, the Respondents could adjust the refund amount of Rs. 33,29,000/- for the tax period of 2007-2008 while calculating the settlement amount in respect of the tax periods 2008-09 and 2009-10.

7. The Petitioner has submitted that the impugned order has been passed on an erroneous interpretation of the provisions of the MVAT Act and also the Settlement Act.

8. The contentions of the Petitioner can be summarized as follows.

i. The Petitioner has submitted that Respondent No. 2 has erred in passing the impugned order after adjustment of refund for tax period 2007-08 without sanction of law, even though the amount for the tax period 2008-09 did not satisfy the criteria of "dues for recovery" as the Petitioner had already filed an application for settlement under the Settlement Act.

ii. The Petitioner further submitted that Respondent No. 2 erred in passing the impugned order for tax period 2008-09 after adjustment of refund for the tax

period of 2007-08 without affording an opportunity to the Petitioner to be heard and hence the impugned order is against the principles of natural justice.

iii. The Petitioner further submitted that Settlement Act is a self-contained code and in that sense, a special scheme, which has been enacted for the purposes of the assessees to avail the benefit thereof, to give quietus to litigation which has arisen or which the assessee may not want to continue with.

iv. The Petitioner further submitted that the provisions of the Settlement Act would override the provisions of the MVAT Act. The Petitioner therefore submitted that the impugned order passed under the Settlement Act requires to be and set aside and cannot be upheld in view of the fact that the refund for the tax period 2007-08 had been determined independently from the settled amount under the Settlement Act, which had been preferred for tax period 2008-2009. The Petitioner further submitted that once payment of outstanding tax amount was made under the Settlement Act for the tax period 2008-09, and the Petitioner had paid such dues as per the procedure stated under the Settlement Act, the Assessing Officer i.e. Respondent No.2 could not have adjusted refund of Rs. 33,29,000/- for tax period 2007-08 as there were no outstanding dues for the tax period 2008-09. The Petitioner therefore submitted that Section 50 of the MVAT Act was wrongly invoked and the refund adjustment of Rs. 33,29,000/- for tax period 2007-08 against the tax period 2008-09, which was settled under the Settlement Act, was not justified. The Petitioner also sought to place reliance on the decisions rendered by this court in the case of TML Business Services Ltd. Vs.

Deputy Commissioner of Sales Tax and Others[1] and on the decision in the case of Andreas Stihl Private Limited Vs. Joint Commissioner of State Tax, Pune and Others[2], wherein it has been held that the refund adjustment under Section 50 of the MVAT Act cannot be made once a taxpayer has paid all outstanding dues under the Settlement Act.

9. Per contra, Learned Counsel Ms. Naira Jeejeebhoy along with Addl. G.P. Ms. Jyoti Chavan and AGP Mr. Amar Mishra, who appeared on behalf of the Respondents have submitted as follows:-

a) It is Respondents contention that at no point of time was any representation made by the Respondents to the Petitioner that the entire amount due for the tax period 2008-09 was available for settlement under the Settlement Act. The refund order was passed for the tax period 2007-08 on the same day as the demand orders for the tax periods 2008-09 and 2009-10 were issued and by way of the statutory mandate under the MVAT Act, this amount i.e. the refund for the tax period 2007-08 needed to be first applied towards the recovery of the amount for the demand pertaining to the subsequent years of 2008-09 and 2009-10.

b) It was further contended that no appeal has been filed by the Petitioner challenging the Demand/ Appeal Order dated 10th May 2023 passed in the case for the tax period 2008-09. It was contended that the Petitioner did not dispute the Demand/ Appeal order but instead only sought rectification to the limited

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1 (2024) SCC OnLine Bom 2177

2 (2025) 138 GSTR 313

extent of Rs 4,00,000/-.

c) It was further contended that prior to any application for settlement of arrears being filed or any order thereon being passed, the Petitioner sought implementation of the Refund Order dated 10th May 2023 for the period 2007-08, which necessarily had to be implemented in the manner provided by Section 50 of the MVAT Act. At the time of passing of the order for adjustment of refund dated 18th April 2024, no prior order was passed under Section 13 of the Settlement Act whereby the outstanding dues of the Petitioner could be said to have been paid / extinguished. It is further contended that the petitioner applied under the Settlement Act for the tax periods 2008-09 and 2009-10 on 22nd August 2023 and 23rd August 2023 respectively. It is therefore contended that the Petitioner expressly recognised the existence of arrears under the MVAT Act for those years and therefore the Petitioner's application for settlement on 22nd August 2023 and 23rd August 2023 was after the orders dated 10th May 2023 which were passed in the case of the tax periods 2008-09 and 2009-10, and therefore the refund could also be adjusted against those pending demands.

d) The Respondents further contended that the Petitioner ought to have taken into consideration the refund amount was to be adjusted under Section 50 of the MVAT Act and that the Petitioner could not take advantage of its own failure to do so.

e) It was further contended that the settlement order for the tax period 2008-09 was admittedly issued only after filing of an earlier batch of Writ Petitions, namely on 18th April 2024 demonstrating that up to that point arrears were

treated as subsisting and required formal settlement. It is also submitted that there is no provision in the Settlement Act by which the mere filing of an application can be said to be sufficient to extinguish the dues of the Petitioner. Therefore, as on the date of the order of refund adjustment, i.e., the impugned order, the dues for subsequent period of 2008-09 were outstanding and the refund amount was required to be adjusted against the same by virtue of Section 50 of the MVAT Act.

f) Learned Counsel on behalf of the Respondents therefore contended that that the impugned order, whereby the refund adjustment for the period of 2007-08 has been carried out, needs to be upheld and the provisions of Section 50 of the MVAT Act 2002 have been rightly applied. It was further submitted that the decisions of TML Business Services (supra) and Andrea Stihl Private Limited (supra) have no application to the facts of the present case and they are distinguishable vis-a-vis the present petition.

ANALYSIS AND CONCLUSION

10. We have heard Learned Counsels on behalf of the Petitioner and Respondents and perused the papers and also the relevant provisions of the Settlement Act and the MVAT Act. In order to appreciate the controversy at hand, it would be beneficial to reproduce certain important provisions of the Settlement Act and the MVAT Act. It will also be beneficial to reproduce the statement of objects and reasons of the Settlement Act. The same reads thus:-

> "*STATEMENT OF OBJECTS AND REASONS*
>
> *With a view to give effect to the proposals contained in the Budget Speech for the financial year 2023-2024, the Government considers it expedient to provide for settlement of arrears of tax, interest, penalty or late fee which were levied, payable*

or imposed under the various Acts administered by the Goods and Services Tax Department.

2. Prior to the implementation of the Maharashtra Goods and Services Tax Act, 2017 (Mah. XLIII of 2017) with effect from the 1st July 2017, various Tax Laws were in force in the State. As sizeable portion of the recovery is locked under litigation, in order to unlock the amount involved in the outstanding dues and reduce the old pending litigations, the Government considers it expedient to provide for a scheme for settlement of arrears of tax, interest, penalty or late fee under the Relevant Act, for the specified period ending on or before the 30% June 2017.

3. As a relief to small industries, traders and other dealers who are under financial stress, the Government considers it expedient to provide a scheme for waiver as well as lump sum payment option upto a specified limit for settlement of dues and closure of old pending litigations. Bigger dealers who are in financial crunch, an option to settle their arrears with payments in instalments is provided

4. In all, the scheme safeguards the revenue in respect of un-disputed tax with an incentive towards the partial waiver of disputed tax, interest, penalty or late fee.

5. The Bill seeks to achieve the above objectives."

11. Further, only the relevant provisions of the Settlement Act are enumerated below:-

*"**2(d) "arrears"** means the outstanding amount of tax, interest, penalty or late fee, as the case may be,—*

(i) payable by an assesse as per any statutory order under the Relevant Act; or

(ii) admitted in the return or, as the case may be, the revised return filed under the Relevant Act and which has not been paid either wholly or partly; or

(iii) determined and recommended to be payable by the auditor, in the audit report submitted as per section 61 of the Value Added Tax Act, whether the notice under section 32 or 32A of the Value Added Tax Act has been issued or not,

and such arrears of tax, interest, penalty or late fee, pertains to specified period and it also includes the interest payable on the admitted tax and arrears of tax, under the Relevant Act for the specified period;

***2(g) "disputed tax"** means the tax other than un-disputed tax as defined in clause (q)*

***2(q) "un-disputed tax"** means,—*

(i) the taxes collected separately under the Relevant Act; or

(ii) the taxes shown payable in the return or the revised return under the Relevant Act; or

(iii) an amount claimed by the dealer as deductions as per rule 57 of the Value Added Tax Rules or similar rules under other Relevant Act; or

(iv) an amount forfeited under the statutory order or excess tax collection shown in the return, revised return or audit report, as the case may be, submitted under the Relevant Act; or

(v) any amount of tax determined and recommended to be payable by the auditor, in the audit report submitted as per section 61 of the Value Added Tax Act, and accepted by the assessee, either wholly or partly; or

(vi) the tax deducted at source (TDS) by the employer under the Value Added Tax Act; or

(vii) the tax collection made under section 31A of the Value Added Tax Act; or

(viii) the tax payable by the enrolment certificate holder under the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Mah. XVI of 1975); or

(ix) the tax deducted by the employer under the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Mah. XVI of 1975); or

(x) the amount of disallowed set-off under rules 52A or 52B of the Value Added Tax Rules, which is eligible to be claimed in the subsequent period; "

11. Conditions for settlement.— (1) Notwithstanding anything contained in any provisions of the Relevant Act, the appeal, if any, pending before the appellate authority under the Relevant Act or the Tribunal or the Court in respect of any statutory order, shall be withdrawn fully and unconditionally by the applicant.

(2) Where excess set-off or refund under the Value Added Tax Act or the Bombay Sales Tax Act, 1959 (Bom. LI of 1959), as the case may be, is adjusted against liability under the Central Sales Tax Act, 1956 (74 of 1956) or the Tax on the Entry Act and where such adjustment of set-off or refund is reduced or denied in the assessment under the Value Added Tax Act or the Bombay Sales Tax Act, 1959 (Bom. LI of 1959), as the case may be, then in order to settle dues under the Central Sales Tax Act, 1956 (74 of 1956) or the Tax on the Entry Act, appeal filed under the Value Added Tax Act or the Bombay Sales Tax Act, 1959 (Bom. LI of 1959), as the case may be, needs to be withdrawn fully and un-conditionally alongwith appeal under the Central Sales Tax Act, 1956 (74 of 1956) or the Tax on the Entry Act, as the case may be.

(3) The submission of acknowledgement of application for withdrawal of appeal to the designated authority, alongwith the application for settlement shall be treated as sufficient proof towards withdrawal of the said appeal

13. Order of settlement.—

(1) If the designated authority is satisfied that the applicant has paid the requisite amount determined in accordance with sections 8 and 9, the designated authority shall pass an order and provide the copy of the said order to the applicant within two months from the date of application, and thereupon, notwithstanding anything contained in the Relevant Act, such applicant shall be discharged of his liability to the extent of the amount of waiver specified in the order of settlement.

(2) Where, the application for settlement of arrears of tax, interest, penalty or late fee is not in accordance with the provisions of this Act, then the designated authority may, by an order, in writing, reject the application, after giving an

opportunity of being heard to the applicant. On rejection of such application and if the applicant had withdrawn the appeal to apply for settlement, then the said original appeal under the Relevant Act shall be reinstated on application made in this behalf to the appellate authority under the Relevant Act subject to the provisions of section 14 .

(3) The designated authority may, on his own motion or on application of the applicant, within six months from the date of the receipt of the order of settlement by the applicant, rectify any error apparent from the record:

Provided that, the application for rectification shall be made within sixty days from the date of the receipt of the order of settlement by the applicant:

Provided further that, no order adversely affecting the applicant shall be passed without giving him a reasonable opportunity of being heard.

15. Review of order passed under this Act.— *(1) Any order passed under this Act may be reviewed by the Commissioner, on his own motion, at any time within twelve months from the date of service of order.*

(2) After noticing any error in such order, in so far as it is prejudicial to the interest of revenue, the Commissioner may serve on the applicant a notice and pass an order to the best of his judgement, where necessary within the time limit prescribed in sub-section (1).

(3) No order adversely affecting the applicant shall be passed without giving him a reasonable opportunity of being heard."

12. The provisions of the MVAT Act which are relevant for the purpose of determining the present dispute are Section 50 of the MVAT Act, and Rule 60 of the Maharashtra Value Added Tax Rules, 2005 (MVAT Rules) which are reproduced below:-

Section 50 of the MVAT Act

50. Refund of excess payment.— *(1) Subject to the other provisions of this Act and the rules made thereunder, [the Commissioner shall, by order refund] to a person the amount of [tax, penalty, interest, security deposit deposited under section 16] if any, paid by such person in excess of the amount due from him. The refund may be either by deduction of such excess from the amount of tax, penalty, amount forfeited and interest due, if any, in respect of any other period or in any other case, by cash payment :*

Provided that, the Commissioner shall first apply such excess towards the recovery of any amount due in respect of which a notice under sub-section (4) of section 32 has been issued, or, as the case may be, any amount which is due as per any return or revised return but not paid and shall then refund the balance, if any.

[(2) If a registered dealer has filed any return, fresh returns or revised returns in respect of any period contained in any year and any amount if refundable to the said

dealer according to the return, fresh return or revised return, then subject to rules, the dealer may adjust such refund against the amount due as per any return, fresh return or revised return for any [* *] period contained in the said year, filed under this Act or the Central Sales Tax Act, 1956 (74 of 1956) or the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002 (Mah. IV of 2003)] :*

[Provided that, for the period commencing on or after the 1st April 2012, a dealer whose refund claim in a year is rupees five lakh or less, may, carry forward such refund to the return or revised return for immediate succeeding year to which such refund relates.]

Rule 60 of the MVAT Rules

60. Grant of Refund. -

(1) Application for refund under section 51 shall be made in Form 501

(2) When the Commissioner is satisfied that a refund is due, he shall pass an order in Form 502, showing the amount of refund due and shall communicate the same to the dealer.

(3) When an order for refund has been made under any rule, the Commissioner shall, if the applicant desires payment in cash, issue to him a refund payment order either in Form 503 or, in form, 504. If the dealer desires adjustment of refund, against tax payable in respect of any subsequent period contained in the year to which the refund relates under this Act, the Central Sales Tax Act, 1956, or the Maharashtra Tax on Entry of Goods into Local Areas Act, 2003, the Commissioner shall issue a Refund Adjustment Order in Form 506.]

13. On a plain reading of the provisions and the Statement of Objects and Reasons of the Settlement Act, it is clear that the said scheme has been introduced with effect from 2023, categorically providing that as large number of cases involving outstanding dues and litigation were pending, and that in order to unlock the amount involved in the outstanding dues and reduce the old pending litigation, the government considered it expedient to provide for a scheme for settlement of arrears of tax, interest, penalty or late fee under the relevant Act for the specified period ending on or before 30th June 2017.

14. Therefore, if an assessee needed to avail or seeks to avail of the benefits of the Settlement Act, then the relevant conditions which are mentioned for the

purposes of availing the benefits of the Settlement Act need to be satisfied in so far as the assessee is concerned. The object behind the scheme was to bring quietus to the litigation or rather successive tax litigation which the assesee does not choose to pursue anymore, and thereby even helps in collection of revenue in so far as the department is concerned.

15. The sections in the Settlement Act provide for all the relevant conditions in so far as availing the scheme is concerned. Therefore, once the assessee fulfils these conditions, then the assessee will get entitled for the scheme. The conditions are enumerated in the sections reproduced in paragraph 11 above. Further, Section 13 of the Settlement Act provides for an order of settlement to be passed by the Designated Authority on satisfaction that the applicant has paid the requisite amount determined in accordance with Sections 8 and 9 of the Settlement Act, and on passing such settlement order, the applicant shall be discharged of his liability to the extent of amount of waiver specified in the order of settlement. If the application is not in accordance with the provisions of the Settlement Act, then the Designated Authority may reject the application, after giving an opportunity of being heard to the applicant. Section 13(3) of the Settlement Act empowers the Designated Authority to rectify any error apparent on record.

16. Further, Sections 15, 16, 17 and 18 of the Settlement Act provide for power of review, and also a bar on reopening of settled cases subject to power of review, rectification, and also if the applicant has obtained the benefit of settlement by suppression of material information etc., then the settlement order can be revoked, and so on and so forth. Therefore, on a holistic reading of the provisions of the

Settlement Act, it is clear that the same is a self-contained code and nothing more or less can be read into it. And once the assessee avails of the scheme as provided in the Settlement Act, then the assessee is absolved from any further tax liabilities.

17. In the facts of the present case, the Petitioner had availed of the One Time Payment Option, whereby if the outstanding dues of tax, interest, penalty, or late fee as per statutory order are below Rs. 50,00,000/-, then the assessee can opt for lump sum payment at 20% and the remaining 80% would be waived off. It is under this One Time Payment Option that the Petitioner sought to avail that out of an amount of Rs. 45,64,433/- which was outstanding for the tax period 2008-09, Rs. 9,12,887/- was determined to be payable under the Settlement Act.

18. It is our firm view on a harmonious reading of the provisions of Section 50 of the MVAT Act and Rule 60 of the MVAT Rules, along with the provisions of the Settlement Act, the adjustment of refund for the tax period 2007-08 against the demand for the tax period 2008-09 as sought to be made by the Department, is not manner acceptable and defeats the very purpose and intention for which the Settlement Act has been introduced by the Government. If we were to accept the submission made on behalf of the Revenue, then the assessee would never be able to achieve quietus of litigation insofar as tax disputes are concerned and this to our mind would only add to further disputes between the assessee and the department and also consequently result in hampering businesses, and making the provisions tax-unfriendly. This can never be the intention of an amnesty scheme. The Department cannot make an assessee pay for its tax dues under the amnesty scheme and at the same time deny legitimate benefit of refund which is due to the

Assessee. This to our mind is an incongruous interpretation of the Settlement Act and also the provisions of the MVAT Act.

19. Further, the Settlement Act does not give a window to import the provisions of Section 50 of the MVAT Act into the provisions of the Settlement Act. This is in view of the fact that the Settlement Act in our view is a self-contained code and once the conditions mentioned therein are fulfilled, the Assessee can avail of the said scheme. The provisions of Section 50 of the MVAT Act operate in a separate field and in the facts of the present case there is no order under Section 50 which has been made for adjustment of Refund of the Tax period 2007-08 against the demand for the tax period 2008-09. Further, no notice under Section 32(4) of the MVAT Act was also issued to the Petitioner to adjust the refund of the tax period 2007-08 against any outstanding demands. The impugned order passed under Section 13(1) of the Act has erroneously read the provisions of Section 50 of the MVAT Act to adjust the refund for the tax period 2007-08 against the demand for the tax period 2008-09. In fact, at this stage we are inclined to accept the contention as made on behalf of the Petitioner that there were no outstanding dues on the day of passing of the impugned order inasmuch as the Petitioner had availed of the Settlement Act and paid the amount of Rs. 9,12,887/-. We are further not persuaded to accept the submission as made on behalf of the Respondents that the adjustment of refund for the period 2007-08 against the demand for tax period 2008-09 has been made in consonance with the provisions of Section 6 of the Settlement Act. Here it will be beneficial to reproduce the provisions of Section 6 of the Settlement Act:-

> "*(1) Notwithstanding anything contained in the Relevant Act or under this Act, —*
>
> *(a) any payment made in respect of a statutory order either in the appeal or otherwise, on or before the 30th April 2023, shall first be adjusted towards the amount of un-disputed tax and then disputed tax, thereafter, towards the interest and the balance amount remaining unadjusted, shall then be adjusted towards the penalty and the late fee, sequentially;*
>
> *(b) after adjustment of amount as specified in clause (a), only the amount remaining outstanding for the specified period, if any, as on the 1st May 2023 or any demand raised for the specified period by any statutory order during the period from 1st May 2023 to 31st October 2023, shall be considered for the settlement under this Act.*
>
> *(2) The provisions of foregoing clauses in respect of adjustment of amount paid and determination of arrears shall be applicable mutatis mutandis to the return dues or, as the case may be, dues as per the recommendations made in respect of tax, interest or late fee by the auditor in the audit report.*"

20. On a plain reading of the aforesaid section it is clear that the amount which is sought to be adjusted is an amount which is respect of any payment made in respect of a statutory order either in appeal or otherwise, on or before 30th April 2023, which shall first be adjusted towards the amount of an undisputed tax, and then disputed tax, and thereafter towards interest, and the balance amount remaining unadjusted shall be adjusted towards penalty and late fee sequentially. It is therefore crystal clear that even otherwise, on a strict interpretation of the aforesaid provision a refund cannot be a payment made in respect of a statutory order, and also is not a disputed tax or undisputed tax as defined in Section 2(g) and 2(q) of the Settlement Act, definitions which are reproduced in paragraph 11.

21. Further sub-clause 6(b) of the Settlement Act provides that a refund has to be due to the applicant in respect of any statutory order or appeal, or court order. In the facts of the present case there was no order of refund for tax period 2008-09 which had arisen and only the refund amount of Rs. 33,29,000/- for tax period 2007-08 is what is sought to be adjusted. Further Section 12 of the Settlement

Act provides for separate application to be made for each financial year. As per the Settlement Act, the amount payable as per Annexure-A is certain percentage of the undisputed tax, disputed tax, interest payable, outstanding, penalty, etc. as per statutory order which is again for each year. Thus, amounts of undisputed tax, disputed tax, interest, penalty, etc. should be the outstanding amounts as per the statutory order to be recovered which would constitute 'arrears as defined by Section 2(d) of the Settlement Act. The scheme of the Settlement Act read with the MVAT Act is that an application to calculate the undisputed tax, disputed tax, interest, penalty, etc. for "each year" is to be made for which an applicant proposes to apply for the Settlement. Therefore, as per the Settlement Act, it is necessary to calculate the outstanding arrears for "each year" on the date of application. In the present case the amount outstanding on the date when the application for the settlement of the tax period 2008-09 was concerned was Rs. 45,64433/-. There was also no refund order passed under Section 50 of the MVAT Act to adjust the refund of tax period 2007-08 against these demands.

22. Further the decisions passed by the Co-ordinate Bench of this Court in Andrea Stihl Private Limited (supra) also fortifies our view. Relevant paragraphs of the same are reproduced below:-

Issue A

"*(A) Whether authorities under the Settlement Act can abdicate and exercise powers granted to authorities under the MVAT Act?*

25. Under Section 3 of the Settlement Act, an authority is designated for implementation of the said Act. The Commissioner of State Tax is the said authority.

26. The Settlement Act is a separate Act which is enacted for settlement of outstanding dues under various State Acts, each of which have separate and

distinct authorities under their respective Acts for their administration. Although the Commissioner of State Tax is a Commissioner under the MVAT Act, he wears a different hat as a "designated authority" under the Settlement Act. Though he is one person but he wears 2 hats. In such a situation, it is well settled that the powers available under different enactments are not to be intermixed. Powers under one statute cannot be exercised for dealing with the matters covered or falling under another statute. In Evergreen Apartment, Co-operative Housing Society Ltd. Vs. Special Secretary (Appeals), Revenue Department, the Gujarat High Court has held that an officer of the revenue department occupying different capacity under different statue would not empower him to exercise powers under one enactment while proceeding under another enactment.

27. Applying the above, order under Section 50 of the MVAT Act for adjustment of refund is to be passed under the said MVAT Act by the authority specified under the said MVAT Act. In the case before us, there is no order under Section 50 of the MVAT Act for adjustment of refund of the Financial Year 2016-17 against dues of Financial years 2013-14, 2015-16 and 2017-18. The authorities under the Settlement Act may also be the authorities under the MVAT Act but while exercising powers under the Settlement Act, they cannot invoke provisions of Section 50 of the MVAT and that too in review proceedings under the Settlement Act. Therefore, on this count itself, impugned orders dated 17th July 2023 are required to be quashed.

28. It is important to note that the Settlement Act nowhere provides or empowers the authorities under the said Act to import the provisions of the MAT Act and more particularly provisions of Section 50 of the MVAT Act for determination of the requisite amount to be paid under the Settlement Act. Therefore, the action of the Respondents in passing the review order by importing the provisions of Section 50 of the MVAT Act is wholly without the authority of law and without jurisdiction. If the legislature wanted to empower the authorities under the Settlement Act with the powers conferred under the MVAT Act then nothing prevented them from providing the same under the Settlement Act. The legislature while enacting the Settlement Act in Section 2(2) provided that the "words and expressions" used in the Settlement Act, but not defined in the said Act shall have the same meanings assigned to them under the Relevant Act. However, the legislature consciously and rightly so did not empower the authorities under the Settlement Act with the powers conferred under the MVAT Act and, therefore, any action of the authorities under the Settlement Act by encroaching upon the powers conferred under the MVAT Act would be without jurisdiction.

Issue B

(B) Whether, on a reading of the Settlement Act, amount for considering for settlement is to be arrived at after adjusting refund of other years against the dues of the years for which application is made under the Settlement Act?

29. The requisite amount to be paid under the Settlement Act can be found in Sections 6 and 8 read with Annexures (A) and (B) of the Settlement Act. Section 6(1)(a) provides that if any payment is made in respect of the statutory order, then same would be adjusted towards undisputed tax, then disputed tax, then

interest and balance towards penalty and late fee and it is only the balance amount which would be considered as outstanding for the purposes of the Settlement under the Act and this amount so arrived will be the basis of computing the amount payable under the Settlement Act as per Section 8 read with Annexures (A) and (B). If the legislature intended that any refund due on the date of making the application or cutoff date for any year is required to be adjusted against the demand of the year for which the application under the Settlement Act is made and only the balance would be considered for the purpose of settlement under the Settlement Act then nothing prevented them to provide so under the Settlement Act. Having not provided, the authorities under the Settlement Act cannot confer upon themselves the powers given under Section 50 of the MVAT Act for determining the amount payable under the Settlement Act. Section 6(1)(a) provides for adjustment to be made of payment made by the Petitioners for the year to which statutory order is concerned and not refund of another year. Also, Section 6 of the Settlement Act overrides anything contained in the Relevant Act for the purpose of adjustment and determination of arrears to be considered for the settlement under the said Act. Therefore, even on this count, action of Respondents in invoking provisions of Section 50 of the MVAT Act for arriving al the settlement amount is contrary to the Settlement Act.

30. It is a settled position in taxation laws that each year is a separate year for the purpose of the assessment. This is also codified in Section 12 of the Settlement Act which provides for separate application to be made for each financial year. As per the Settlement Act, the amount payable as per Annexure-A is certain percentage of the undisputed tax, disputed tax, interest payable, outstanding, penalty, etc. as per statutory order which is again for each year. Thus, amounts of undisputed tax, disputed tax, interest, penalty, etc. should be outstanding amount as per the statutory order to be recovered which would constitute 'arrears' as defined by Section 2(d) of the Settlement Act. The scheme of the Settlement Act read with the MVAT Act is that an application to calculate the undisputed tax, disputed tax, interest, penalty, etc. for "each year" is to be made for which an applicant proposes to apply for the Settlement. Therefore, as per the Settlement Act one has to calculate the outstanding arrears for "each year" on the date of application. Admittedly in the instant case, there is no dispute that the amount outstanding on the date when the Petitioner made application and also on the date when settlement orders under Section 13 were made, the outstanding arrears as per the statutory orders for the financial years 2013-2014, 2015-2016 and 2017-2018 were Rs.1,01,51,134/-, 1,41,86,978/- and 30,40,559/- respectively. On that date there was no proceedings pending or any order passed under Section 50 of the MAT Act to adjust refund for the year 2016-2017 against these demands.

31. In our view, there is no provision under Settlement Act which provides for calculation of outstanding arrears of a particular year to be arrived at after adjustment of refund for another year moreso in a case where there is no such adjustment of the refund order on the date of application or on the date of settlement order under Section 13 of the Settlement Act. In our view, therefore the impugned action of the Respondents to recalculate the outstanding arrears for the financial years 2013-2014, 2015-2016 and 2017-2018 after passing the settlement order by invoking provisions of Section 15 of the Settlement Act admittedly without there being an order Section 50 of the MVAT Act is

certainly without jurisdiction."

23. This Court in TML Business Services (supra) has also taken a similar view. Relevant paragraphs of the same are reproduced below:-

"*14. There is no dispute that as per the Settlement Scheme for the year 2010-2011, Petitioner is liable to make payment of Rs. 8,46,84,821/-. There is also no dispute that the said amount for the year 2010-2011 as per the Settlement Scheme was paid by Petitioner on 13th May 2019 and same was communicated to Respondents alongwith the copies of challan on 14th May 2019, and same was also acknowledged on the said date by Respondents. Therefore, as on 13th May 2019, there was no outstanding due for the year 2010-2011 against which Respondents could have adjusted on 23d May 2019 the refund of year 2011-2012 of RS. 10,69,89,606/-. Therefore, the refund adjustment on 23rd May 2019 itself is illegal and consequently, Petitioner is entitled for the refund of Rs. 10,69,89,606/-.*

15. It is also important note that pursuant to RTI application made by Petitioner the refund for the year 2011-2012 was already approved on 10th May 2019 and 14th May 2019 by the Assistant Commissioner of State Tax and Joint Commissioner of State Tax and the case records were transferred for further necessary action to complete the refund procedure. If that be so, then we fail to understand as to how on 23rd May 2019 an officer below the rank of approving authority could have adjusted the said refund against a demand for the year 2010-2011 which, as more particularly observed hereinabove, itself did not exist on the date of adjustment. of refund. Therefore, even on this count, the refund adjustment order is required to be set aside.

16. There is no dispute that Petitioner's liability under the Settlement Scheme is Rs. 8,46,84,821/- as against which the Respondents have recovered from the Petitioner Rs. 19,16,74,501/-thereby resulting into excess collection by Respondents to the extent of Rs. 10,69,89,606/-. The excess arose because on 13th May 2019, Petitioner, under the Settlement Scheme, paid Rs. 8,46,84,821/- and subsequently on 23rd May 2019; Respondents, without any authority of law, adjusted the refund for the year 2011-2012 amounting to Rs. 10,69,89,606/- against the demand for the year 2010-2011 which did not exist. This has not been disputed by Respondents. Therefore, even on this count, the claim of Petitioner for refund of Rs. 10,69,89.606/- is justified since it is a settled position that the State authorities cannot retain the excess amount which is not in accordance with law and same would be violative of Article 265 of the Constitution of India.

17. It is also important to note that the defect notice issued under Section 11 is dated 14th May 2019, wherein the outstanding amount as per Respondents record is shown at Rs. 3,30,85,284/- being difference between the outstanding for the year 2010-2011 amounting to Rs. 14,00,74,890/- and the adjustment of refund of Rs. 10,69,89,606/- for the year 2011-2012. We fail to understand as to how on 14th May 2019, Respondents have arrived at the outstanding amount of

Rs. 3,30,85,284/- after adjusting the refund for the year 2011-2012, when refund adjustment order is itself of 23rd May 2019. Therefore, the defect notice itself is defective and not in accordance with the law. Furthermore, on a reading Section 11 of the Settlement Scheme, the defect notice is issued when there is a shortfall in making the payment and not when an applicant has paid the correct amount. In the instant case, on a perusal of the defect notice it states that requisite amount payable is Rs. 66,17,057/-, whereas Petitioner has paid Rs. 8,46,84,821/- which is excess payment and not short payment.

18. Reliance placed by Respondents on Section 18 of the Settlement Scheme for not granting the refund is also misconceived. Section 18 provides that under no circumstances, shall the applicant be entitled to get refund of the amount paid under the Settlement Scheme. In the instant case before us, Petitioner is not seeking refund of Rs. 8,46,84,821/- which is the undisputed amount paid under the Settlement Scheme, but is seeking a refund of Rs. 10,69,89,606/-which is refund for the year 2011-2012 arising out of the appeal order for the said year and not an amount paid under the Settlement Scheme: Therefore, on this count also, we do not find any force in the submissions of Respondents to withhold the refund amount for the year 2011-2012."

24. Further, Respondent No.2 has not given an opportunity to the Petitioner of making their submissions before adjusting the aforesaid refund for the tax period 2007-08 against the demand for tax period 2008-09 by way of the impugned order. Section 13(2) of the Settlement Act provides that where the application for settlement of arrears tax, interest, penalty or late fee is not in accordance with the provisions of the Act then the designated authority may by an order in writing reject the application after giving an opportunity of being heard to the applicant. In the facts of the present case the impugned order has been passed without giving an opportunity to the Petitioner to be heard, which also makes the same liable to be set aside as the same has been passed in violation of the principles of natural justice.

25. Further we are not inclined to accept the submission as made by the learned counsel on behalf of the Respondents that the decisions as rendered by this Court in TML Business Services (supra) and Andrea Stihl Private Limited (supra) are not

applicable to the facts of the present case inasmuch as even in the facts of the present case there were no dues outstanding insofar as tax period 2008-09 is concerned as the Petitioner had already availed benefit of the Settlement Act, and further a determination of the amount payable under the Settlement Act for Tax period 2008-09 was already made in the facts of the present case, prior to the passing of the impugned order. We therefore are of the view that the decision as rendered by this court in TML Business Services (supra) and Andrea Stihl Private Limited (supra) apply to the facts of the present case and are not distinguishable on the grounds which learned counsel on behalf of the Respondents seeks to canvass.

26. Therefore, in conclusion, we are of the view that the impugned order has been passed without appreciating the legal position and is also not in consonance with the provisions of the Settlement Act and the MVAT Act. In view of the above findings, we pass the following order

ORDER

i. The impugned order dated 18th April 2024 passed under Section 13 of the Settlement Act for the tax period 2008-09 is hereby quashed and set aside. The Settlement Application of the Petitioner for the aforesaid tax period 2008-09 shall be accepted without adjustment of refund of Rs. 33,29,000/- pertaining to tax period 2007-08.

ii. Respondents are directed to refund a sum of Rs. 33,29,000/- being refund for the tax period 2007-08 along with interest as per the MVAT Act and the said refund should be credited to the Petitioner's account within a period of 2 weeks from the date of uploading of the present order.

iii. Petition disposed of in the above terms. No Costs.

(AARTI SATHE, J.) (G. S. KULKARNI, J.)