

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

**NOTICE OF MOTION NO.523 OF 2015
IN
SALES TAX REFERENCE(L)NO.30 OF 2007
IN
REFERENCE APPLICATION NOS.67 AND 68 OF 2003
WITH
SALES TAX REFERENCE (L) NO.30 OF 2007**

The Commissioner of Sales Tax,
Maharashtra State ..Applicant
(Orig.Applicant)

IN THE MATTER BETWEEN
The Commissioner of Sales Tax
Maharashtra State ..Applicant
Vs
M/s Trinity Engineers Limited ..Respondent

WITH

**NOTICE OF MOTION NO.591 OF 2015
IN
SALES TAX REFERENCE(L)NO.93 OF 2007
IN
REFERENCE APPLICATION NO.11 OF 2005
WITH
SALES TAX REFERENCE (L) NO.93 OF 2007**

The Commissioner of Sales Tax,
Maharashtra State ..Applicant
(Orig.Applicant)

IN THE MATTER BETWEEN
The Commissioner of Sales Tax
Maharashtra State ..Applicant
Vs
M/s Swastik Polymers ..Respondent

WITH
NOTICE OF MOTION NO.592 OF 2015
IN
SALES TAX REFERENCE(L)NO.79 OF 2007
IN
REFERENCE APPLICATION NO.155 OF 2003
WITH
SALES TAX REFERENCE (L) NO.79 OF 2007

The Commissioner of Sales Tax,
Maharashtra State

..Applicant
(Orig.Applicant)

IN THE MATTER BETWEEN
The Commissioner of Sales Tax
Maharashtra State

..Applicant

Vs

M/s Industrial Supply Co.

..Respondent

WITH
NOTICE OF MOTION NO.616 OF 2015
IN
SALES TAX REFERENCE(L)NO.91 OF 2007
IN
REFERENCE APPLICATION NO.67 OF 2002
WITH
SALES TAX REFERENCE (L) NO.91 OF 2007

The Commissioner of Sales Tax,
Maharashtra State

..Applicant
(Orig.Applicant)

IN THE MATTER BETWEEN
The Commissioner of Sales Tax
Maharashtra State

..Applicant

Vs

M/s Computer Stationery

..Respondent

WITH
NOTICE OF MOTION NO.625 OF 2015

**IN
SALES TAX REFERENCE(L)NO.44 OF 2007
IN
REFERENCE APPLICATION NO.60 OF 2001
WITH
SALES TAX REFERENCE (L) NO.44 OF 2007**

The Commissioner of Sales Tax,
Maharashtra State

..Applicant
(Orig.Applicant)

IN THE MATTER BETWEEN
The Commissioner of Sales Tax
Maharashtra State

..Applicant

Vs

M/s Bayer (India) Ltd

..Respondent

WITH

**NOTICE OF MOTION NO.845 OF 2015
IN
SALES TAX REFERENCE(L)NO.121 OF 2007
IN
REFERENCE APPLICATION NO.59 OF 2006
WITH
SALES TAX REFERENCE (L) NO.121 OF 2007**

The Commissioner of Sales Tax,
Maharashtra State

..Applicant

Vs.

M/s Maharashtra Insecticides Ltd

..Respondent

WITH

**NOTICE OF MOTION NO.951 OF 2015
IN
SALES TAX REFERENCE(L)NO.21 OF 2007
IN
REFERENCE APPLICATION NO.35 OF 2000
WITH**

SALES TAX REFERENCE (L) NO.21 OF 2007

The Commissioner of Sales Tax,
Maharashtra State

..Applicant
(Orig.Applicant)

IN THE MATTER BETWEEN
The Commissioner of Sales Tax
Maharashtra State

..Applicant

Vs

M/s Arvind Mills Ltd

..Respondent

Mr.Umashanker Upadhyaya, Asst. Govt. Pleader-State,for the
Appellant / Applicant in all References.

Mr. P. V. Surte, for Respondents in STRL.30/07 and NMS.523/15.

Mr. Ishaan Patkar i/b Ms. Manjiri S. Parasnis, for the Respondent
in STRL.93/07 and NMS.591/15.

Mr. S. P. Surte, for the Respondent in STRL.79/07 and NMS.
592/15, STRL.121/07 and NMS.845/15.

Ms. Nikita Badheka, for the Respondent in STRL.91/07,
NMS.616/15, STRL.21/07 and NMS.951/15.

Mr. Rahul Thakar i/b Mr. C. B. Thakar, for the Respondent in
STRL.44/07 and NMS.625/15.

**CORAM :- S.C. DHARMADHIKARI &
B.P.COLABAWALLA, JJ.**

DATE :- OCTOBER 25, 2016.

P. C.:

These Notices of Motion seek condonation of delay to
set aside the order of the Prothonotary and Senior Master.

2 The Prothonotary and Senior Master in terms of

certain practices adopted in the past proceeded to dismiss the Sales Tax References for non-compliance with the office objections and procedural formalities.

3 These Sales Tax References were at the instance of the State. The State requested the Tribunal to forward questions of law for answer and opinion of this Court. Thereafter, the matters were numbered as References. Unmindful of their powers, the Prothonotary and Senior Master dismissed all these References for non-compliance of the procedural formalities. Thereafter, the statement of law was pronounced and it was declared that the Prothonotary and Senior Master does not possess any such powers. His orders are claimed to be erroneous and contrary to the Bombay High Court (Original Side), Rules. However, liberty was granted to the Applicants State / the Commissioner to move the Applications to recall the orders dismissing the References for want of compliance with office objections. Hence, these Notices of Motion.

4 When all of them were listed today, Mr. Upadhyaya appearing for the Applicants - Commissioner of Sales Tax in each of these matters stated that no useful purpose will be served by

entertaining these Motions, granting them and thereafter proceeding with the References in accordance with law simply because the Commissioner is no-longer interested in obtaining any opinion and answer on the questions of law from this Court. Since the References are registered at the instance of the Applicants / Commissioner of Sales Tax who approached the Tribunal and sought its intervention to forward these questions, we accept Mr. Upadhyay's statement, made on instructions. We not only dispose off all these Notices of Motion but all the References, as well. We clarify that the questions of law forwarded are kept open for being answered in an appropriate case.

(B. P. COLABAWALLA, J.) (S. C. DHARMADHIKARI, J.)