

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

MAHARASHTRA VALUE ADDED TAX APPEAL NO. 16 OF 2017

The Addl. Commissioner of
Sales Tax ... Appellant
Vs.
M/s. Schneider Electric India Pvt. Ltd. ... Respondent

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Mr. V. A. Sonpal, Special Counsel for the Appellant-State.
Mr. Jitendra Motwani i/b. M/s. Economic Laws Practice for the
Respondent.

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**CORAM : S. C. DHARMADHIKARI &
PRAKASH D. NAIK, JJ.**

DATE : APRIL 25, 2017.

P.C. :

1. After having heard both sides and perused the order of the Tribunal impugned in this Appeal, the first four questions proposed by Mr. Sonpal at page 4 of the paper book arise for consideration. They are no doubt, substantial questions of law. The Appeal is, therefore, admitted on the said substantial questions of law which are as follows:

- (i) Whether, on true and correct interpretation of Sub-section (12) of Section 23 of MVAT Act, 2002, was the Tribunal right in law holding that the period of limitation for fresh assessment is 18 months from the date of communication of the cancellation order?
- (ii) Whether, on the facts and circumstances of the case and on true and correct interpretation of Sub-section (12) of

Section 23 of MVAT Act, 2002, was the Tribunal right in law holding that the word “may” appearing in Sub-section (12) of Section 23 of MVAT Act, 2002, should be read as “shall”?

- (iii) Whether, on facts and in circumstances of the case, was the Tribunal right in law holding that fresh assessment order dated 12.10.2015 is passed beyond the period of limitation?
- (iv) Whether, a fresh assessment order under Sub-section (11) of Section 23 of MVAT Act, 2002, can be passed even after 18 months of service of order of cancellation of *ex parte* assessment order?

2. Respondent waives service.

3. On instructions, Mr. Sonpal makes a statement that question Nos. 5 and 6 proposed by the Revenue in this Appeal at page 4 of the paper book are not pressed.

(PRAKASH D. NAIK, J.)

(S. C. DHARMADHIKARI, J.)