IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3944 OF 2026

(Haldiram Snacks Food Private Limited & Ors.
Vs.
State of Maharashtra & Anr.)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr. H.R. Gadhia, Advocate for the Petitioners.
Mr. A.J. Gohokar, AGP for the Respondent No.1/State.
Mr. S.V. Purohit, Advocate for the Respondent No.2.

CORAM: URMILA JOSHI-PHALKE AND NIVEDITA P. MEHTA, JJ.

DATED : 08th MAY, 2026

1. By this Petition, the Petitioners raised a question that whether the tax or sale of electricity will be payable by the captive consumers against their own generated power consumed by them.

2. Heard learned Counsel for the Petitioners, who submitted that the Petitioners in order to ensure a reliable and cost effective supply of electricity from renewable energy sources for their manufacturing operations have invested in the Captive Generating Plants (CGP)/Captive Power Plants (CPP). The Petitioners are also consumers of the Respondent No.2/MSEDCL. The Maharashtra Tax on Sale of Electricity Act, 1963 (for short the "Act of 1963") contemplates levy of Tax on the Sale of Electricity in the State of Maharashtra and referred Section 3 of the Act of 1963. He submitted that, the

Petitioners would not fall within the definition of consumer as defined under Section 2(15) of the Electricity Act, 2003, insofar as sale of electricity is concerned but rather would fall within the definition of Power Utility under Section 2(c) of the Act of 1963 as they are CGP/CPP.

3. In support of his contention he placed reliance on the order passed of this Court at Principal Seat in Writ Petition (L) No. 9993/2026 decided on 30.03.2026, wherein similar issue was involved.

4. Learned Counsel for the Respondent No.2, has strongly objected for the same and submitted that, the grounds raised in the Petition are not sufficient to grant him such relief and hence the prayer of interim relief deserves to be rejected.

5. Learned AGP has endorsed the same contention.

6. On hearing both the sides and on perusal of the order passed in Writ Petition (L) No. 9993/2026 relied by the learned Counsel for the Petitioners, wherein the similar issue was involved, this Court has observed that, the aforesaid question has been dealt with by the learned Appellate Tribunal for Electricity in the decision rendered in the case of JSW Steel Ltd and others Vs. Secretary, Maharashtra Electricity Regulatory Commission and another (2019 SCC OnLine Aptel 57). The said issue was also dealt with in the case of Maharashtra State Electricity Distribution Co. Ltd. v. JSW Steel Ltd and others, (2022) 2 SCC 742, wherein the Hon'ble Supreme Court has expressed opinion that supply of electricity by the generating company to the captive consumers would not amount to sale of electricity attracting tax. Therefore, the learned senior counsel for the Writ Petitioner have submitted that the component of “tax on sale”, as reflected in the impugned electricity bills raised by Respondent No.1 is not tenable in the eyes of law. It is also submitted at the Bar that due to non-payment of the component of “tax”, as demanded by the authorities, the Respondents are not only contemplating to disconnect the electricity supply but are also likely to initiate other coercive measures and also refused to grant open access license, in which event, serious prejudice will be caused to the Petitioner(s). Hence, the prayer for interim relief.

It is further observed by the Court at Principal Seat, that although the Respondents have opposed the prayers made in the Writ Petition, yet, after arguing the matter for some time, the learned AGP, on instructions from Mr. Uddhav Dahiphale, Joint Secretary of the Energy Department, who is present before the Court, submits that the Government would not take any steps to recover the tax component as reflected in the energy bills till the next date nor will it take any coercive action against the Petitioners for non-payment of the above amounts without the leave of the Court. However, the Respondent No.2 be permitted to reflect the amount of tax due, in the electricity bills, without prejudice to the rights and contentions of the parties.

7. The issue involved in this Petition is also covered by the said order. In view of that, interim relief is granted in terms of prayer clause (E) & (F).

8. List the matter **after Summer Vacation**.

(NIVEDITA P. MEHTA, J.) **(URMILA JOSHI-PHALKE, J.)**

SD. Bhimte