

# Mahalaxmi Cotton Ginning Pressing & Oil Industries v. State of Maharashtra & Ors.

*Challenge to constitutional validity of restriction on input tax set-off based on actual payment of tax by selling dealer (Section involved: Section 48(5) of the Maharashtra Value Added Tax Act, 2002)*

**Date of Order:** May 11, 2012  
**Case Law No:** GIB-BHC-2012-01  
**Source:** GST INDIA Biz (www.gstindia.biz)

## CASE DESCRIPTION / SUMMARY

### Facts

The petitioner, a registered dealer under the MVAT Act, claimed input tax set-off based on purchases supported by tax invoices and sought refund for the assessment year 2009-10. The tax authorities reduced the set-off on the ground of mismatch and non-payment of tax by certain selling dealers. The petitioner challenged [Section 48\(5\)](#) as unconstitutional and also sought reading down of the words "actually paid." The case was heard along with a batch of petitions raising similar issues.

### Court Decision:

The High Court upheld the constitutional validity of [Section 48\(5\)](#). The Court held that set-off is a statutory concession and can be subject to conditions, including the requirement that tax must be actually paid into the Government treasury. It held that the legislature is competent to impose such a condition to prevent tax evasion and ensure compliance. The Court declined to read down the provision and held that the requirement of "actually paid" is valid and enforceable.

### Cases Referred by Court:

- Tata Iron and Steel Company v. State of Bihar
- George Oakes (Private) Ltd. v. State of Madras
- Khazan Chand v. State of Jammu and Kashmir
- Central Wines v. Special Commercial Tax Officer

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