IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition Nos.7446 to 7448 of 2009
M.P.Nos.1, 1, 1, and 1 of 2009
M.P.Nos.1, 1, 1, 1, 2, 2, 2 and 2 of 2015

M/s.Indian Organic Chemicals Ltd.,
(Now known as Futura Polyesters Ltd.)
No.1, Kamarajar Salai,
Manali, Chennai 600 068. ... Petitioner in all W.Ps.,

Vs.

1. The State of Tamil Nadu,
rep., by the Secretary to Government,
CT & RE. Department,
Fort St. George, Chennai 600 009.

2. The Commercial Tax Officer,
Manali Assessment Circle,
Kuralagam Annexe, 1st Floor,
Chennai 600 108.

3. The Union of India,
rep., by the Secretary to
Government of India,
Department of Revenue,
New Delhi.

4. The State of Maharastra,
rep., by its Secretary,
Department of Revenue,
Mumbai.

5. The State of Rajasthan,
rep., by its Secretary,
Department of Revenue,
Jaipur, Rajasthan.

6. Union Territory of Pondicherry,
rep., by its Secretary,
Department of Revenue,
Pondicherry.

7. Union Territory of Daddra,
rep, by its Secretary,
Department of Revenue,
Daddra.

8. The State of Gujarat,
rep., by its Secretary,
Department of Revenue,
Ahmedabad. ... Respondent in all W.Ps.,

Prayers : Writ Petitions filed under Article 226 of the Constitution of India praying for Writs of Certiorarified Mandamus, to call for the records of the impugned proceedings of the second respondent herein in CST/49999, dated 20.03.2009, for the assessment year 1992-93 (in respect of W.P.No.7446 of 2009); CST/49999, dated 23.03.2009, for the assessment year 1993-94 (in respect of W.P.No.7447 of 2009); and CST/49999, dated 30.03.2009, for the assessment year 1994-95 (in respect of W.P.No.7448 of 2009) quash the same and further direct the second respondent to decide the issue, in regard to the eligibility of the petitioner to avail of the benefit under Section 6-A of the CST Act, 1956, in the light of the law laid down by the Supreme Court of India in the case of M/s.Hercules Rubber Co., in Civil Appeal Nos.6587 and 6588 of 1995, dated 20.07.1995 and the law laid down by the Three Judges Bench of the Apex Court in the case of M/s.Ashok Leyland Ltd., reported in 134 STC 473.

For Petitioner : Mr.R.L.Ramani,
Senior Advocate
for Mr.B.Raveendran

For Respondents 1 & 2: Mr.V.Haribabu,
Additional Government Pleader (T)

O R D E R

These Writ Petitions have been filed by M/s.Indian Organic Chemicals Ltd., (Now known as Futura Polyesters Ltd.), Chennai, challenging the impugned proceedings of the Commercial Tax Officer, Manali Assessment Circle, Kuralagam Annexe, 1st Floor, Chennai, 2nd respondent herein, in CST/49999, dated 20.03.2009 (for the assessment year 1992-93), CST/49999, dated 23.03.2009 (for the assessment year 1993-94) and CST/49999, dated 30.03.2009 (for the assessment year 1994-95).

2. At the outset, Mr.R.L.Ramani, Learned Senior Counsel, appearing for the petitioner submitted that since the petitioner is having place of business in other places also, as abundant caution, he has arrayed respondents 3 to 8, as parties to these writ petitions. However, he submitted that the petitioner is not pressing

the relief, as against respondents 3 to 8. Recording his submission, the writ petitions are dismissed, as against respondents 3 to 8.

3. Learned Senior Counsel appearing for the petitioner submitted that all along, the petitioner has been requesting a fair treatment, by providing a personal hearing, by the Assessing Officer, before passing a final order so that he would be in a position to place all the relevant records and that both the parties shall resolve the issue, pending for quite a long time.

4. A detailed common counter affidavit is filed by respondents 1 and 2, in support of the impugned order.

5. This Court, without going into the merits of the case, considering the present request made by the learned counsel for the petitioner and also taking note of the fact that the writ petitions have been pending from 2009 onwards, is inclined to quash the impugned orders. Accordingly, the impugned orders stand quashed, however, with a direction to the Commercial Tax Officer, Manali Assessment Circle, Kuralagam Annexe, 1st Floor, Chennai, second respondent herein, to consider the case of the petitioner on its own merits, after giving a personal hearing to the petitioner. It is open to the petitioner to place on record, the materials available, without asking any adjournment, whatsoever, within a period of 10 days, from the date of receipt of a copy of this order, whereupon, it is for the 2nd respondent to fix up a date, after serving a prior notice to the petitioner and proceed thereafter to pass appropriate orders, by considering the materials available on record.

6. Writ Petitions stand allowed, to the extend indicated above and stand dismissed as against Respondents 3 to 8. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

skm

To

1. The Secretary to Government,
   State of Tamil Nadu,
   CT & RE. Department,
   Fort St. George, Chennai 600 009.

2. The Commercial Tax Officer,
   Manali Assessment Circle,
   Kuralagam Annexe, 1st Floor,
   Chennai 600 108.

3. The Secretary to Government of India,
   Department of Revenue, Union of India,
   New Delhi.

4. The Secretary,
   Department of Revenue,
   State of Maharastra,
   Mumbai.

5. The Secretary,
   Department of Revenue,
   Jaipur, Rajasthan.

6. The Secretary, Department of Revenue,
   Union Territory of Pondicherry,

7. The Secretary,
   Department of Revenue,
   Union Territory of Daddra,

8. The Secretary,
   Department of Revenue,
   Ahmedabad, Gujarat,

+3 ccs to Special Government Pleader Sr.33615, 33616, 38618

Writ Petition Nos.7446 to 7448 of 2009

DR(AS)
EU 11.08.15