HON'BLE SRI JUSTICE R.SUBHASH REDDY

AND

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.1212 of 2002

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ORDER : (per Hon'ble Sri Justice R.Subhash Reddy)

This writ petition is filed by the petitioner seeking *Mandamus* to direct the respondents to refund the excess tax amount of Rs.18,43,149/- paid by it for the assessment years 1993-94, 1994-95, 1995-96 and 1996-97 with interest thereon in accordance with the revised assessment orders passed by the 1st respondent-Commercial Tax Officer, Narayanguda Circle, Hyderabad.

2. The petitioner is a Public Limited Company and is a registered dealer under the provisions of A.P. General Sales Tax Act, 1957 on the rolls of 1st respondent. The petitioner prepares plastic cable sheathing compound by processing locally purchased low density polyethylene granules, ethylene vinyl acetate and carbon. Pursuant to the assessment order passed by the competent authority, the petitioner has paid excess tax amount of Rs.18,43,149/- for the assessment years 1993-94, 1994-95, 1995-96 and 1996-97. The grievance of the petitioner is that in view of the order passed by the Sales Tax Appellate Tribunal, Hyderabad, in T.A.Nos.397 and 398 of 1995 and 380 of 1996, dated 20.4.1998, as confirmed by this Court in T.R.C.Nos.212, 237 and 238 of 1998, dated 23.8.2001, the petitioner is entitled for refund of the excess amount paid towards tax.

3. In the counter affidavit filed by the 1st respondent, the only defence taken by them is that as against the orders passed by this Court, the matters were carried by way of Special Leave Petitions

(SLPs) to the Hon'ble Supreme Court, as such, the respondents have not refunded the excess tax amount to the petitioner.

4. When the matter was taken up on 3.3.2015, learned counsel for the petitioner submitted that the S.L.Ps. filed by the Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad, were dismissed by the Hon'ble Supreme Court vide Civil Appeal Nos.6102-6104 of 2002, dated 27.3.2008. A copy of such order is also produced before this Court and the same has been confirmed by the learned Special Government Pleader for Commercial Taxes.

5. In view of the dismissal of the S.L.Ps by the Hon'ble Supreme Court, there is no reason for the respondents in not refunding the excess tax amount paid by the petitioner.

6. In view of the above, this writ petition is allowed directing the respondents to refund the excess tax amount paid by the petitioner for the assessment years 1993-94, 1994-95, 1995-96 and 1996-97 within a period of two months from today. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

Dr. JUSTICE B.SIVA SANKARA RAO

27.03.2015.

Msr

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