IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.822 OF 2010

M/s. Rayalaseema Concrete
Sleepers Pvt. Ltd.,
Rawanfond, Navelim,
Salcete, Goa. ....Petitioner

V/s

1. The Assistant Commissioner of Sales Tax, Government of Goa, Office of the Commissioner of Sales Tax, Panaji, Goa.

2. Sales Tax Officer, Margao Ward, Government of Goa, Margao, Salcete, Goa.

3. M/s. Konkan Railway Corporation Limited through its Managing Director, Belapur, New Bombay.

4. The Administrative Tribunal, at Panaji, Goa. (petition stands dismissed as against R-4.) ....Respondents

Shri H.D. Naik, Advocate for the Petitioner.
Ms. Amira Razaq, Additional Government Advocate for Respondent Nos.1 & 2.
Shri A.D. Bhobe, Advocate for Respondent No.3.

CORAM : C.V. BHADANG, J.

DATE : 24th AUGUST, 2016

ORAL JUDGMENT :

Heard learned Counsel for the petitioner and the learned Additional Government Advocate for the respondent nos.1 & 2. I have also heard the learned Counsel appearing for the respondent no.3.

2. The petitioner is said to be registered as a small scale industry with the Director of Industries, Government of Goa. The petitioner had entered into a contract with the respondent no.3 for supply of slippers. As the petitioner's unit exceeded the limit for small scale industry had got registered as medium scale industry. The production of the slippers started sometime in May, 1993. By an order dated 30/03/1998 the Sales Tax Officer at Margao made assessment of sales tax amounting to Rs.34,45,919.00 on the sales made by the petitioner for the year 1993-94 and accordingly a demand was raised. The petitioner challenged the same before the Assistant Commissioner. The learned Assistant Commissioner dismissed the appeal on 27/05/1999 which was challenged in a Second Appeal before the Administrative

Tribunal. The second appeal came to be dismissed on 22/02/2010, which brings the petitioner to this Court.

3. The contention raised on behalf of the petitioner is that as per letter dated 3/01/1991 written by the Under Secretary (Finance Expenditure), Government of Goa to the third respondent, the manufacture of slippers for catering to the needs of the third respondent – Corporation stood automatically exempted and there was no need for separate exemption certificate being issued in respect of the manufacturing unit. The learned Counsel has then placed reliance on the acknowledgment dated 4/05/1993 in order to show that a permanent exemption was applied for.

4. The learned Additional Government Advocate points out that the letter dated 3/01/1991 is addressed to the third respondent and would apply if there is an in-house

manufacture and production by the Corporation for its own purpose. The learned Additional Government Advocate points out that this will not apply to a third party supplying the slippers to the Corporation on the basis of a commercial contract. In so far as the acknowledgment dated 4/05/1993 is concerned, it is pointed out that the Tribunal has already considered this aspect and has held that the acknowledgment cannot take the place of permanent registration certificate.

5. The learned Counsel for the respondent no.3 has nothing to say in the matter as the dispute is essentially between the petitioner and the Revenue.

6. I have considered the circumstances and the submissions made and I have gone through the order passed by the Administrative Tribunal. It is not in dispute that the petitioner had obtained provisional certificate. However, the

petitioner never produced any certificate of permanent registration. The Tribunal has relied upon circular dated 16/09/1993 and, more particularly, clause 3(1) thereof which reads thus:

> "The Provisional registration Certificate (PRC) will be valid for a fixed period of 5 years from the date of issue of PRC. In other words, the PRC will automatically lapse at the end of 5 years from the date of issue of the certificate or the date of commencement of production by the Unit whichever is earlier. It may be noted that, the PRC is valid only for the pre-operative period of the Unit. That is, as soon as the Unit commences commercial production, the provisional registration certificate loses its validity".

7. It can thus clearly be seen that a Provisional Registration Certificate would be valid for a period of 5 years from the date of issue or till the commencement of the production whichever is earlier. It is not in dispute that prior to the year 1993-94 in respect of which the liability arises, the production of the slippers had started. Thus, in view of the said

circular, the provisional certificate cannot come to the aid of the petitioner. Indisputably, the petitioner did not produce a Permanent Registration Certificate in order to enable the petitioner to seek exemption. Even so far as the acknowledgment dated 4/05/1993 is concerned no exception can be taken to the finding of the Administrative Tribunal that it cannot take the place of the certificate of permanent registration.

8. On carefully going through the impugned orders passed, I do not find that any case for interference is made out. The petition is without any merit and is accordingly dismissed with no order as to costs.

C.V. BHADANG, J.

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