

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
WRIT PETITION NO.3496 OF 2016

Mahindra & Mahindra Limtied .. Petitioner
vs
The State of Maharashtra & ors .. Respondents

Mr.Rafique Dada Sr.Counsel a.w Mr.Omkar Sharma
and Mr.R.Mishra i/b Mr.Mihir Deshmukh
for Petitioner
Mr.PG.Sawant Assistant Government Pleader for Respondents

...
CORAM: S.C.DHARMADHIKARI &
G.S.KULKARNI, JJ
DATE: 29th MARCH 2016

P.C.

1. By this Petition under Article 226 of the Constitution of India the Petitioners claim the following reliefs :

“(a) This Hon'ble Court be pleased to issue a writ of Certiorari or a writ in the nature of Certiorari under Article 226 of the Constitution of India, to quash and set aside the,

(i) Notice dated 09.09.2015 proposing prorata reversal of the benefits granted to restrict it to 36.87% for 2006-07.

(ii) Notice dated 10.09.2015 proposing to review the assessment order for 2007-08.

(iii) Orders dated 30.09.2015 where a common ratio for the Utility Unit and the Scorpio Unit (another manufacturing unit of the Petitioner) has been taken.”

2. The challenge is to a notice in requisite Form and proposing to reverse the benefits granted. Notices have been understood by the Petitioner thus:

“2006-07: Notice dated 09.09.2015 proposing pro-rata reversal of the benefits granted to restrict it to 37.86% for 2006-07.

2007-08: Notice dated 10.09.2015 proposing to review the assessment order for pro-rata reversal of the benefit granted to restrict to 36.87% for Utility Vehicle Unit and to 44.69% for Scorpio Unit for 2007-08.

2009-10: Assessment Orders passed for 2009-10: Orders dated 30.09.2015 where a common ratio for the Utility Unit and the Scorpio Unit (another manufacturing unit of the Petitioner) has been taken.

2010-11: Notices for assessing the benefits available at a common ratio for the Utility Unit and the Scorpio Unit.”

3. Mr.Dada learned Senior counsel appearing on behalf of the Petitioner submitted that though the matter has been moved at the stage of issuance of such a notice, the consequences are enormous. What the Respondents are seeking to do is to apply retrospectively amend the assessment like the present one, which stand concluded prior to the Judgment of this Court delivered in a batch of Writ Petitions (copy of which is at 142 of the Paper Book).

4. After having heard Mr.Dada for sometime, we are of the view that no interference is called for in writ jurisdiction at this stage. All actions of the respondents are proposed. They are yet to finalize the same. It is clear from the Annexures to the Writ Petition that the Respondents have clarified that they propose to do something and which is indicated in these notices and the above order. In the event, the Petitioners have objections to the course as initiated and adopted by the Respondents, they can raise these objections before the Competent Authority and who shall consider them and pass a reasoned order.

5. Once this is the nature of the proceedings, then by keeping open all objections including legality and validity of the legal provisions which they propose to invoke, we dispose of these Writ Petitions.

6. We clarify that we have not expressed any opinion on any of the objections and/or contentions raised including on the constitutional validity and legality of the provisions that have been invoked by the Respondents. All such contentions as raised in the Petition are kept open for being raised at an appropriate stage and in appropriate proceedings.

With these observations, Writ Petition is disposed of.

G.S.KULKARNI, J

S.C.DHARMADHIKARI, J

