IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.7.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.15934 of 2007 and MP.No.1 of 2007

M/s.Arun Mithun Traders, a partnership firm, rep.by its Managing Partner Mr.A.Malaichamy (Distributors of Tata Chemicals Ltd.) ...Petitioner

Vs

1.State of Tamil Nadu, rep.by the Secretary to Government, Commercial Taxes & Religious Endowments Department, Fort.St.George, Chennai-9.

2.The Commercial Tax Officer, Erode (Rural), Erode. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents herein, their men, servants or agents or any one claiming under them from in any way collecting, levying or recovering entry tax on goods of the petitioner such as soda ash and caustic soda under the provisions of the Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001 and direct the respondents to forthwith refund the petitioner a sum of Rs.1,62,17,922.01 Ps collected from the petitioner as entry tax under the provisions of the said enactment from 2002 to 2007 with interest at 12% per annum till full refund is made.

For Petitioner : Mr.S.Sivakumar

For Respondents: Mr.S.Kanmani Annamalai, AGP

ORDER

Heard Mr.S.Sivakumar, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondents. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has filed this writ petition seeking to forbear the respondents from collecting, levying or recovering entry tax on goods of the petitioner under the provisions of the Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001 and to direct the respondents to refund the amount collected from the petitioner together with interest.

3. Learned counsel for the petitioner submits that the legal issue involved in this writ petition is covered in favour of the assessee in the decision of a Full Bench of this Court in the case of ITC Limited Vs. State of Tamil Nadu [reported in 2007 (2) CTC 577].

4. The learned Additional Government Pleader appearing for the respondents accepts that the issue is covered by the aforesaid decision in favour of the petitioner.

5. Accordingly, the writ petition is allowed as prayed for and the second respondent is directed to adjust the tax, which has already been paid by the petitioner for the subsequent assessment years as against the tax dues. No costs. Consequently, the above MP is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

RS
To

1.The Secretary to Government of Tamil Nadu,
Commercial Taxes & Religious
Endowments Department,
Fort.St.George, Chennai-9.

2.The Commercial Tax Officer,
Erode (Rural), Erode.

+1cc to the Special Government Pleader Sr.38489
+1cc to Mr.S.Sivakumar, Advocate Sr.38476

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srg 25/07/2016