

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 15.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.37940 of 2003 &
WPMP No.46069 of 2003

M/S NISHA KISHAN SPINNINGS
MILLS (P) LTD. REP.BY ITS
MANAGING DIRECTOR.

[PETITIONER]

Vs

- 1 THE MANAGING DIRECTOR
TAMILNADU INDUSTRIAL INVESTMENT
CORPORATION LTD.
NANDANAM CHENNAI.
 - 2 THE BRANCH MANAGER
TAMILNADU
INDUSTRIAL INVESTMENT CORPN. LTD.
OLD TVS ROAD , THENI.
 - 3 THE CHAIRMAN AND MANAGING
DIRECTOR STATE INDUSTRIES
PROMOTION CORPN. OF TAMILNADU LTD.
19A RUKMANI LAKSHMIPATHI ROAD
EGMORE, CHENNAI 8.
 - 4 THE ASSISTANT COMMISSIONER (CT)
MADURAI WEST, MADURAI DISTRICT
 - 5 THE SPECIAL COMMISSIONER AND
COMMISSIONER OF COMMERCIAL TAXES
EZHILAGAM, CHEPAUK, CHENNAI-600 005.
 - 6 THE COMMERCIAL TAX OFFICER
ASSESSMENT CIRCLE - I
THENI 625 531.
- [RESPONDENTS]

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of certiorarified mandamus to call for the records relating to the notice issued by the 6th respondent dated 11.3.2003 in Roc.A4.2725/01, quash the same and to direct the 6th respondent to permit the petitioner to repay the IFST from October 2004.

For Petitioner : Mr.M.Md.IbrahimAli

For Respondents : No appearance - R1 to R3
Mr.Kanmani Annamalai - R4 to R6
Additional Government Pleader

O R D E R

Heard Mr.M.Md.IbrahimAli , learned Counsel appearing for the petitioner, and Mr.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondents and non appeared for the respondents 1 to 3.

2.The petitioner is the Spinning Mills and they are aggrieved by the order passed by the 6th respondent dated 11.3.2003, in and by which the petitioner has been held liable to pay the sales tax availed in excess of the deferral sales tax granted to them.

3.The petitioner has challenged the impugned proceedings on the ground that the respondents have not given adequate opportunity to put forth their case.

4.Though other grounds have been raised, the same need not be gone into for the simple reason that in the counter affidavit filed by the sixth respondent, it has been stated that though notices were issued to the petitioner, they did not turn up.

5.At the time when the Writ Petition was entertained, an interim order was granted and this writ petition is pending since 2003. The learned counsel for the petitioner submitted that they have got eligibility certificate in respect of all the three Units and prayed for opportunity to appear before the sixth respondent and produce the same.

6.In the light of the above, instead of quashing the impugned proceedings, the said proceedings is kept in abeyance and the petitioner shall appear before the sixth respondent, within a period of four weeks from the date of receipt of a copy of this order and produce the eligibility certificate and other records along with their written objections, if any. If the same is done by the petitioner, the sixth respondent shall consider the case of the petitioner and proceed further in accordance with law. However, if the petitioner fails to exercise the option granted by this Court, the benefit of this order will not enure to the petitioner and the Writ Petition will be automatically dismissed, leaving it open to the sixth respondent to proceed further in accordance with law.

The Writ Petition is disposed of accordingly. No costs.
Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

Rpa

To

- 1 THE MANAGING DIRECTOR
TAMILNADU INDUSTRIAL INVESTMENT
CORPORATION LTD.
NANDANAM CHENNAI.
- 2 THE BRANCH MANAGER
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- 1 cc to Mr.Md. Ibrahim Ali, Advocate, Sr. 32993
1 cc to Spl.Government Pleader, Sr. 33335
1 cc to Mr.K.F. Manavalan, Advocate, Sr. 32949

W.P.No. 37940 of 2003

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