THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

WRIT PETITION Nos.14495 & 14562 of 2011

COMMON ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Heard Sri M.Prahasta, learned counsel appearing on behalf of Sri Vivek Chandrasekhar, learned counsel for the petitioner, and Sri S. Suri Babu, learned Special Standing Counsel for Commercial Taxes and, with their consent, the Writ Petitions are disposed of at the stage of admission.

These writ petitions are filed seeking a direction to the 2nd respondent to dispose of the petitioner's representation dated 14.03.2011, to receive the C-forms filed by them on 15.03.2011 modifying the demand raised for the assessment years 2007-08 and 2008-09, and to interdict the 1st respondent from enforcing the demand pursuant to the notice dated 29.04.2011.

The petitioner herein filed their returns for the assessment years 2007-08 and 2008-09 declaring certain turnovers under CST Act, 1956. The filed certain C-forms before completion of the assessment. In reply to the show cause notice issued on 30.06.2010, the petitioner requested the respondents on 06.07.2010, among others, for grant of further time for production of C-forms in respect of remaining turnover. The 2nd respondent, however, completed the assessment on 29.12.2010 levying tax at the higher rate, on the ground of non-production of C-forms. On receipt of a copy of the assessment orders on 11.01.2011, the petitioner submitted a representation on 14.03.2011 for both the assessment years 2007-08 and 2008-09. Relying on the judgment of this Court, in **M/s. Godrej Agrovet Ltd v.**

The Commercial Tax Officer[1], they requested the assessing authority to reopen the assessment, and to reduce the demand to the extent C-forms were now being produced. On the ground that the said representation was not considered, they have invoked the jurisdiction of this Court.

Learned counsel for the petitioner would rely on the judgment of the Supreme Court in **State of A.P. v. Hyderabad Asbestos Cement Production Ltd.**[2], and the Division Bench judgments of this Court in **Rajeswari Stone Polishers v. State of A.P**[3] and **M/s. Godrej Agrovet Ltd**[1]**,** to contend that, even after an assessment order is passed, it is open to the assessing authority to receive the C-forms, and to reduce the demand to that extent.

Rule 12 (7) of the Central Sales Tax (Registration and Turnover) Rules, 1957 (for short 'the Rules') empowers the assessing authority to receive C-forms even after making the assessment, provided the dealer satisfies the authority that he was prevented by sufficient cause from filing the said forms before making the assessment. The proviso to sub-rule (7) does not prescribe any time limit within which a dealer can file C forms. A Division Bench of this Court, in **Rajeswari Stone Polishers**[3], held that a dealer can file the forms, even after the assessment order is passed, as long as he is able to satisfy the authority of the sufficient cause contemplated by the proviso. The Supreme Court in **Hyderabad Asbestos Cement Production Ltd**[2] affirmed the Division Bench judgment in **Rajeswari Stone Polishers**[3], and clarified that the power to receive C forms, by the 1st assessing authority, can be exercised only where sufficient cause is shown by the dealer. In **M/s. Godrej Agrovet Ltd**[1], a Division Bench of this Court held that it is open to the dealer to produce C forms before the assessing authority even after assessment, provided sufficient cause is shown by him for the belated filing of the C forms.

In the present case the assessments under the CST Act relate to the years 2007-08 and 2008-09, and the limitation prescribed for passing the assessment order is four years which, in relation to the assessment year 2007-08, would have expired only on 31.03.2012; and, in relation to the assessment year 2008-09, would have expired only on 31.03.2013. It is not as if the assessing authority had perforce to pass the assessment order on 29.12.2010 on the ground that the assessment would, otherwise, be barred by limitation. As the petitioner has submitted a representation, explaining why they could not produce C forms earlier, we consider it appropriate to dispose of the writ petitions directing the 1st respondent to consider the said representation and, if he is satisfied that sufficient cause has been shown, to then consider the C forms and, if they are found to be valid, to reduce the demand to the extent C forms were furnished. The 1st respondent shall, at the earliest and in any event not later than three months from the date of receipt of a copy of this order, consider the petitioner's representation, and take necessary action in accordance with law.

Both the writ petitions stand disposed of accordingly. Needless to state that, till orders are passed by the 1st respondent as directed hereinabove, the 2nd respondent shall not take any coercive steps for recovery of the tax due in relation to the turnover for which C forms were furnished, albeit belatedly. The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

A.SHANKAR NARAYANA, J

Date: 25.07.2016.

v v

[1] W.P.Nos.10978 & 12657 of 2005 dated 26.10.2005

[2] (1994) 5 Supreme Court Cases 100

[3] Vol.52 STC 268