THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Writ Petition No.10309 of 2016

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

The proceedings under challenge in this writ petition are the endorsements dated 26.06.2015 and 13.08.2015 issued by the 3rd respondent returning the C Forms submitted by the petitioner on the ground that the CST assessments, relating to the years 2002-03, 2004-05, 2005-06 and 2006-07, were finalised within the time limit of four years of the related financial years, and therefore the request of the dealers to reassess their turnovers for concessional rate of tax under Central Sales Tax Act (for short "the Act") pertaining to the said years cannot be considered as per the provisions of the Act.

The aforesaid endorsements are questioned by Sri P.Girish Kumar, learned counsel for the petitioner, mainly on the ground that, while the C Forms were submitted as early as on 24.06.2009, they were returned only six years thereafter on 26.06.2015 and 13.08.2015.

It is evident from the letter dated 24.06.2009, whereby the petitioner had submitted C-forms relating to the years 2002, 2004 and 2006, that the petitioner did not show any cause for the belated filing of the C Forms let alone sufficient cause. All that is stated in the said letter dated 24.06.2009 is that the petitioner was enclosing the "C Forms" received from the parties, and that the assessing authority should consider and authorise the concerned for correcting the tax amount accordingly.

Even in the affidavit filed in support of the writ petition no explanation is forthcoming for the inordinate delay of nearly six years in filing the C Forms relating to the year 2002-03, nearly four years in filing the C Forms relating to the year 2004-05 and nearly three years for the C Forms relating to the year 2006-07. All that is stated in paragraph No.4 of the writ affidavit is that buyers take time for furnishing “C” Declaration Forms and the petitioner used to submit the “C” Forms as and when they received it from their buyers.

Rule 12(7) of the Central Sales Tax (R&T) Rules requires the dealer to furnish a declaration in Form ‘C’ to the prescribed authority within three months after the end of the period to which the declaration or the certificate relates. Under the proviso thereto, if the prescribed authority is satisfied that the person concerned was prevented by sufficient cause from furnishing such declaration or certificate within the aforesaid time, the authority may allow such declaration or certificate to be furnished within such further time as that authority may permit.

The precondition for receiving C Forms, beyond the period stipulated in Rule 12(7) of the Central Sales Tax (R&T) Rules, is for the dealer to furnish sufficient cause to the satisfaction of the prescribed authority that he was prevented from submitting such a declaration or certificate within the time prescribed. Rule 12(7) of the Central Sales Tax (R&T) Rules was construed in several judgments of this Court, including in ***Godrej Agrovet Ltd. vs. Commercial Tax Officer, Eluru, West Godavari District***[1] wherein it was held that “C” Forms can be received even after assessment, if sufficient cause is shown by the dealer. The petitioner has not shown any cause either before the assessing authority or before this Court, much less sufficient cause.

While the submission of Sri P. Girish Kumar that the assessing authority had kept the C Forms, filed in the year 2009, with him nearly six years thereafter is not without merit, the fact remains that the petitioner has benefited by the inaction of the respondents in passing any order on the petitioner’s representation dated 24.06.2009 till 26.06.2015 and 13.08.2015, in as much as they have not paid the differential tax till date. In the absence of any cause being shown for the delay in filing C Forms, we see no reason to entertain the writ petition.

The writ petition is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

Date: 01.06.2016
JSU

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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