IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 02.08.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.12758 of 2006
&
W.P.M.P.No.14354 of 2006
&
W.M.P.No.339 of 2007
&
W.V.M.P.No.46 of 2008

M/s.Jin Plast (India) Limited
Represented by its Director
No.29, Narayan Mudali Street
Dhanwanthri Complex, 1st Floor
Chennai – 600 079 .. Petitioner

Vs.

1. The Commercial Tax Officer
   Sowcarpet-II Assessment Circle
   Chennai

2. The Assistant Commissioner (CT)
   Zone II, Chennai .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records of the 2nd respondent in R.C.No.337/2005/B1 dated 22.02.2005 and the consequential recovery notice of the 1st respondent in R.C.No.439/2005/A4 dated 13.03.2006 and quash the same.



For Petitioner : Mr.S.Raveekumar
for Mr.K.Govi Ganesan

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard Mr.S.Raveekumar, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondents.

2. The petitioner in this writ petition challenges a notice issued by the first respondent calling upon the petitioner to make payment with regard to Sales Tax on the ground that there is discrepancies in availing the IFST Deferral Scheme.

3. The petitioner's case was that IFST Deferral Scheme was granted in favour of the petitioner in the year 1999 and the petitioner was availing the Deferral Scheme for nine years from 10.09.1996 to 09.09.2005 and all of a sudden, after a lapse of about four years, the conditions imposed in the Eligibility Certificate was sought to be amended by issuing a notice dated 01.12.2003. The petitioner submitted their objections on 15.12.2003 clearly stating that there cannot be any amendment to the Eligibility Certificate, that too after a lapse of four years and when they are availing the Deferral for the original unit and expansion unit concurrently as per the proceedings in Reference No.R.C.1851/99 B1 dated 30.12.1999, there cannot be any amendment to the said proceedings. For nearly two years, no further action was initiated by the second respondent and on 17.01.2005, the second respondent issued another notice where there was no reference to the earlier notice dated 01.12.2003. The petitioner once again submitted their objection on 31.01.2005 and without taking note of the valid objection made by the petitioner, the impugned order has been passed.

4. The writ petition was filed before this Court on 26.04.2006 and it was admitted on 28.04.2006 and an order of interim stay was granted on the said date. The order of stay has been in force. The resultant position is that the petitioner has enjoyed the Deferral Scheme as per the original proceedings dated 30.12.1999 and has paid the entire amount. This submission has been made by the learned counsel for the petitioner, which is placed on record.



5. Thus, in the light of the subsequent development, it will be highly inequitable for the respondent to resurrect the entire matter once over again and seek to harp upon the amendment to the original Eligibility Certificate. This Court is of the view that the impugned proceedings are required to be set aside.

Accordingly, this writ petition is allowed and the impugned proceedings dated 13.03.2006 is set aside. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

gpa

To

1. The Commercial Tax Officer
   Sowcarpet-II Assessment Circle
   Chennai

2. The Assistant Commissioner (CT)
   Zone II, Chennai

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SP(24/08/2017)