IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.08.2018
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.8332 of 2010

M/s.Precot Meridian Ltd.
(Formerly known as Meridian Industries Ltd.,)
Having regd. Office at
SUPREM, PB 7161, Green Fields,
Puliakulam Road,
Coimbatore-641 045. ...Petitioner

Vs

1. The Managing Director,
State Industries Promotion Corporation
of Tamil Nadu Limited,
19-A, Rukmani Lakshmipathi Road,
Egmore, Post Box No.723,
Chennai-600 008.

2. The Assistant Commissioner (CT),
Trichy Road Circle,
Coimbatore. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the Second Respondent in TNGST No.1881081/2004-05 & 2005-06, quash the proceedings dated 17.03.2010 issued therein and further direct the 1st respondent herein to delete the condition contained in clause 3 of the eligibility certificate dated 05.05.1999 namely "the sales tax benefit for the period from 01.03.2004 to 31.03.2008 will be restricted to actual sales tax remitted during the period from 01.03.1995 to 31.03.1999" in accordance with the instructions issued by the State of Tamil Nadu vide its Letter No.(MS) 229, Industries (MIG II) Department, dated 27.05.1991 and also in accordance with the judgment of the Division Bench of this Court reported in 9 VST 614, besides directing the second respondent to give consequential refund of excess tax collected by him from the petitioner along with the sum of Rs.12,61,365/- paid by the petitioner towards penal interest under protest.

For Petitioner : Mr.B.Raveendran
For Respondents : Mr.Ramesh Venkatachalapathy for R1
Mr.M.Hariharan for R2

ORDER

In this writ petition, the petitioner has sought the following reliefs:

(i)to quash the notice dated 17.03.2010 issued by the second respondent, thereby, directing the petitioner to pay interest under Section 24(3) of the TNGST Act, on or before 19.03.2010, failing which, coercive steps would be taken to recover the amount due.

(ii)to direct the first respondent to delete the condition contained in Clause 3 of the eligibility certificate dated 05.05.1999 viz., "the sales tax benefit for the period from 01.03.2004 to 31.03.2008 will be restricted to actual sales tax remitted during the period from 01.03.1995 to 31.03.1999".

(iii)to direct the second respondent to refund the excess tax collected from the petitioner along with Rs.12,61,365/- towards penal interest under protest.

2.Today, when the matter is taken up for consideration, the learned counsel for the petitioner submitted that the issue involved herein is squarely covered by a decision of the Division Bench of this Court in Arooran Sugars Limited v. State Industries Promotion Corporation of Tamil Nadu Limited and others [(2007) 9 VST 614 (Mad)], wherein, it has been observed as follows:

> "In the instant case, it is not in dispute that the total investment of the petitioner is Rs.1,044.21 lakhs and the commercial production was commenced on September 1, 1993 and consequently, they are eligible for waiver of sales tax for a period from September 1, 1993 to August 31, 1998 subject to the ceiling of total investment made in fixed assets. But, merely because the eligibility certificate was issued by the SIPCOT on December 16, 1994, where-under, the above factual details were not disputed, the certifying authority cannot, at any stretch of imagination, by the impugned proceedings, while rescheduling the period of five years from November 1, 1994 to October 31, 1999, restrict the quantum of waiver of sales tax benefit to the actual sales tax remitted during the period from September 1, 1993 to October 31, 1994, as, such attempt would be contrary to the spirit and

> substance of G.O.Ms.No.500, Industries (MIG-II) Department, dated May 14, 1990.
>
> We, therefore, have no hesitation to hold that the petitioner is entitled to the maximum extent of waiver of Rs.1,044.21 lakhs without any restriction."

and ultimately, it has been held as follows:

> "On the other hand, since there is no dispute as to the entitlement of the petitioner for the waiver of sales tax to the tune of Rs.1,044.21 lakhs for a period of five years, as rescheduled in the proceedings dated August 16, 1995 from November 1, 1994 to October 31, 1999 subject to the ceiling of total investment made in the fixed assets, viz., Rs.1,044.21 lakhs, in our considered opinion, suffice it to strike down the restriction that the sales tax benefit for a period from September 1, 1998 to October 31, 1999 would be restricted to actual sales tax remitted during the period from September 1, 1993 to October 31, 1994, which would in turn qualify G.O.Ms.No.500, Industries (MIG-II) Department, dated May 14, 1990 in spirit and substance. Consequently, the order of the learned Single Judge is set aside and the writ appeal is allowed. No costs."

Following the aforesaid decision, this Court, vide order dated 26.02.2010, disposed of a writ petition in WP.No.4374 of 2009, which was similar in nature as that of the present case. Therefore, the learned counsel submitted that in the light of the aforesaid decision, the representation submitted by the petitioner dated 02.04.2010 in this regard, be directed to be considered by the respondents, for which, the learned counsel appearing for the respective respondents have no serious objection.

3.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel appearing for the respective parties, this Court directs the respondents to consider the representation of the petitioner dated 02.04.2010, if not considered earlier, and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, within a period of six weeks from the date of receipt of a copy of this order. While passing such order, the respondents shall keep in mind the decision of the Division Bench of this Court in Arooran Sugars Limited v. State Industries Promotion Corporation of Tamil Nadu Limited and others [(2007) 9 VST 614 (Mad)] and the earlier order of this Court dated 26.02.2010 in WP.No.4374 of 2009.

4.Accordingly, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

kal/rk

To
1. The Managing Director,
State Industries Promotion Corporation
of Tamil Nadu Limited,
19-A, Rukmani Lakshmipathi Road,
Egmore, Post Box No.723,
Chennai-600 008.

2. The Assistant Commissioner (CT),
Trichy Road Circle,
Coimbatore.

+ 1 cc to Mr.B. Raveendran, Advocate Sr.53881
+ 1 cc to Mr. Ramesh Venkatachalapathy, Advocate Sr.54380

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KS(CO)
EU(09/11/2018)