IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06-08-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP Nos.2285 to 2291 of 2018
And
MP Nos.1, 1, 1, 1, 1, 1 and 1 of 2018

Thirumalai Chemicals Limited,
Represented by its Managing Director,
R.Parthasarathy,
25B, SIPCOT Industrial Estate,
Ranipet - 632 403,
Tamil Nadu. ..Petitioner in all WPs

vs.

1.The Commercial Tax Officer,
Ranipet (SIPCOT),
Ranipet.

2.The Assistant Commissioner (CT),
Vellore.

3.The Deputy Commissioner of Commercial Taxes,
Vellore.
..Respondents in all WPs

Prayer:

WP 2285 of 2008 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records on the file of the second respondent herein in RC.A3.1191/2007 dated 24.12.2007 and quash the same.

WP 2286 of 2008 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records on the file of the first respondent herein in CST No.352030/2005-06 dated 26.12.2007 and quash the same.

WP 2287 of 2008 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records on the file of the first respondent herein in CST No.352030/2004-05 dated 26.12.2007 and quash the same.

WP 2288 of 2008 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records on the file of the first respondent herein in CST No.352030/2002-03 dated 26.12.2007 and quash the same.

WP 2289 of 2008 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records on the file of the first respondent herein in CST No.352030/2000-01 dated 26.12.2007 and quash the same.

WP 2290 of 2008 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records on the file of the first respondent herein in CST No.352030/2003-04 dated 26.12.2007 and quash the same.

WP 2291 of 2008 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records on the file of the first respondent herein in CST No.352030/2001-02 dated 26.12.2007 and quash the same.

For Petitioner in all WPs : Mr.N.Sri Prakash

For Respondents in all WPs : Mr.V.Veluchamy,
Government Advocate.

C O M M O N   O R D E R

WP 2285 of 2008 is filed challenging the order passed regarding retrospective alteration of the conditions of the agreement, which caused infringement of right of the petitioner.

2. WP Nos.2286 to 2291 of 2008 are filed questioning the levy of interest and the issues raised are interconnected.

3. The learned counsel appearing on behalf of the writ petitioners mainly contended that retrospective of alteration of the conditions of the agreement are impermissible. Even under General Law and more-so, such an alteration is done unilaterally without even providing reasonable opportunity to the writ

petitioners to put forth their case and the writ petitioners, therefore, are entitled for an effective adjudication in this regard.

4. This Court is of the considered opinion that retrospective alteration of agreement, in normal circumstances, is impermissible and if at all any statutory provisions confers power to the authority, it is to be adjudicated with reference to such provisions and by affording complete opportunity to the Assessees to defend their case in the manner known to law.

5. Perusal of the order would show that a show cause notice was issued and the writ petitioners submitted their objections. However, considering the nature of retrospective alteration made, an elaborate adjudication of mixed question of law and facts are required.

6. Thus, this Court thought fit that these cases are to be remitted back for effective adjudication of the issues and such disputed facts between the parties, cannot be adjudicated in the writ proceedings under Article 226 of the Constitution of India.

7. The retrospective alteration of certain conditions by the Department requires adjudication of facts. Such an adjudication must be done with reference to the documents and evidences and also with reference to the provisions of the Act and Rules.

8. Under these circumstances, considering the fact there was a long delay, this Court is of an opinion that an opportunity is to be provided to the writ petitioners for effective presentation of their case before the Competent Authority for the purpose of redressing their grievances.

9. Accordingly, impugned orders RC.A3.1191/2007 dated 24.12.2007, CST No.352030/2005-06 dated 26.12.2007, CST No.352030/2004-05 dated 26.12.2007, CST No.352030/2002-03 dated 26.12.2007, CST No.352030/2000-01 dated 26.12.2007, CST No.352030/2003-04 dated 26.12.2007 and CST No.352030/2001-02 dated 26.12.2007 are quashed and the matters are remitted back to the first respondent for the purpose of fresh adjudication. The first respondent shall consider the claim set out by the writ petitioners, adjudicate the same by following the procedures and by affording an opportunity to the writ petitioners and decide the issues as expeditiously as possible. The writ petitioners are at liberty to submit their original objections, additional objections, if any and the documents relied upon and also the judgments etc., along with the order passed in these writ petitions.

10. With the above directions, the writ petitions stand allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Commercial Tax Officer,
Ranipet (SIPCOT),
Ranipet.

2.The Assistant Commissioner (CT),
Vellore.

3.The Deputy Commissioner of Commercial Taxes,
Vellore.

+1cc to M/s.N.Sri Prakash, Advocate Sr No.38764
+1cc to the Special Government Pleader Sr No.38996

WPs 2285 to 2291 of 2018

AJS (CO)
PR (13/09/2021)