IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 425 OF 2018

United Spirits Ltd. (Erstwhile
McDowell and Co. Ltd.,)
A Company incorporated under
the Companies Act, 1956
with its registered office at
9th Floor, U.B. Tower, U.B. City,
24, Vittal Mallya Rd.,
Bengaluru – 560001 with its
Manufacturing Plant at
Bethora, Ponda Goa.
Represented by its Authorized Officer,
Mr. Suraj Shenvi Pilgaonkar,
major of age, married,
resident of Datta Laxmi Niwas,
ID Hospital Road, Tisk, Ponda Goa. .. Petitioner

Versus

1. State of Goa,
   through the Chief Secretary
   with office at Secretariat,
   Legislative Assembly Complex,
   Porvorim Goa.

2. The Commissioner of Commercial Taxes,
   with office at Vikrikar Bhavan,
   M.G. Road, Panaji Goa.

3. The Addl. Commissioner of Commercial Taxes,
   with office at Vikrikar Bhavan,
   M. G. Road, Panaji Goa.

4. The Commercial Tax Officer Ponda Ward, with office at Tisk, Ponda Goa.

5. The Assistant Commercial Tax Officer, with office at Abubaker Mansion, Kurti Road, Ponda Goa. … Respondents

Mr. Sudesh Usgaonkar with Ms. Rosette Pereira, Advocates for the Petitioner.

Mr. D. Pangam, Advocate General with Mr. P. Faldessai, Addl. Government Advocate for the Respondents.

Coram:- M. S. SONAK &
NUTAN D. SARDESSAI, JJ.
Reserved on : 27th September, 2019
Pronounced on : 16th October, 2019

Judgment (Per M. S. Sonak, J)

Heard Mr. Sudesh Usgaonkar with Ms. R. Pereira, learned counsel for the Petitioner and Mr. D. J. Pangam, learned Advocate General with Mr. P. Faldessai, learned Addl. Government Advocate for the Respondents.

2. Rule. With the consent and at the request of the learned counsel for the parties, Rule is made returnable forthwith.

3. The Petitioner has instituted this petition to seek the following reliefs :

(a) statutory interest of Rs.30,99,752.00 being interest at the rate of 8% per annum on Rs.1,08,13,087.86 from 1st July, 2012 to 31st January, 2016 as specified at para 19 of the petition;

(b) statutory interest of Rs.46,94,779/- being interest at the rate of 8% per annum on Rs.85,58,747.14 i.e. 90 days after the date of logging of the claim under sub-sec 3 of Section 10 for each of the four quarter of the year 2008-2009 as specified at para 20 of the petition;

(c) Rs.12,45,770.32 being the VAT input tax credit on export sales against restrictive tax invoice.

4. The main issue involved in this petition relates to the date from which, the simple interest at the rate of 8% per annum, in terms of Section 33(2) of the Goa Value Added Tax Act, 2005 (the said Act) becomes payable, on the amount refundable under the provisions of the said Act ?

5. In Writ Petition No.424 of 2018, instituted by this very Petitioner, we have answered the aforesaid issue in favour of the Petitioner and against the Respondent – Revenue.

6. Accordingly, for the reasons recorded by us, in our judgment and order dated 16th October, 2019 in Writ Petition No.424 of 2018, we dispose of this Writ Petition by making the following order :

(A) The Respondents are directed to pay the Petitioner simple interest at the rate of 8% per annum upon sanctioned refund amount of Rs.1,08,13,087.86 towards the interstate/local sales for the period between 1st July, 2012 and 20th February, 2016, within eight weeks from today;

(B) The Respondents are directed to pay simple interest at the rate of 8% per annum on the sanctioned refund amount of Rs.85,58,747.14 towards the refund of input tax credit/export sales for the period between 25th July, 2008, 22nd October, 2008, 21st January, 2009, 17th April, 2009 and 20th February, 2016 on proportionate basis, since these dates corresponding to the expiry of 90 days from the date of receipt of the applications for refund in terms of Section 10(3) of the said Act, again within a period of eight weeks from today.

(C) The relief in terms of prayer clause (c) is presently denied. However, the Adjudicating Authority before whom such relief is sought for to dispose of the proceedings within four months from today. In case the Petitioner is aggrieved by the decision of the Adjudicating Authority, the Petitioner will have liberty to take out appropriate proceedings before the appropriate forum to question the same.

7. Rule is made absolute in the aforesaid terms. However there shall be no order as to costs.

8. All concerned to act on the basis of the authenticated copy of this order.

NUTAN D. SARDESSAI, J. **M. S. SONAK, J.**

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