IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 426 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 Abubaker Mansion, Kurti Road, 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 learned counsel for the parties.

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

3. In this petition, the Petitioner has prayed for the following reliefs :

> “(a) Refund the excess tax paid by the Petitioner to the Respondent in terms of Assessment Order dated 27/03/2014 (Exb. A) alongwith statutory interest thereon as specified para 11, 12 and 14 of the petition;
>
> (b) Comply with the order in Appeal of Appellate Tribunal as expeditiously as possible and not later than three months and thereafter pay the amount of refund to the extent of Rs.10,80,715/- being Rs.4,47,311/- towards excess tax collected on account of stating incorrect turnover and Rs.6,33,404/- towards Input Tax Credit on Restrictive Tax Invoices within the period of three months therefrom.”

4. There is no dispute that the Respondents have refunded to the Petitioner the excess tax vide order dated 7th February, 2019. Therefore, the first part of the relief in terms of prayer clause (a) of the petition no longer survives.

5. The Petitioner's grievance regards non payment of interest in terms of Section 33(2) of the Goa Value Added Tax, 2005 (the said Act) however survives.

6. According to us, this issue of interest stands covered by our decision in Writ Petition No.424 of 2018 pronounced today i.e. 16th October, 2019.

7. Accordingly, we partly allow this petition and direct the

Respondents to work out on the interest calculation in terms of our decision in Writ Petition No.424 of 2018 and pay the same to the Petitioner within a period of twelve weeks from today.

8. Mr. Usgaonkar states that the relief in terms of prayer clause (b) of the petition no longer survives since the appeal itself has been disposed of on 29th October, 2018.

9. Rule is made partly absolute in the aforesaid terms. There shall be no order as to costs.

10. 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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