IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on	24/7/2018
Judgment pronounced on	03/01/2019

C O R A M :

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Appeal Nos.1177 to 1179 of 2012

Sungwoo Gestamp Hitech (Chennai) Ltd
(Formerly known as Technical Stampings
Automotive Ltd),
G-16-18 SIPCOT Industrial Park
Irrungattukottai,
Sriperumbudur Taluk,
Kancheepuram District 602 105. ...Appellant/Petitioner in all the appeals

..Vs..

1. The Deputy Commercial Tax Officer
Sriperumbudur Assessment Circle
Vaadarajapuram.

2. The Assistant Commissioner (CT)
Kancheepuram.

3. The State Industries Promotion
Corporation of Tamil Nadu Ltd
19 A Rukmani Lakshmipathy Road
Post Box No.7223
Egmore
Chennai 600 008. ...Respondents/Respondents in all the appeals

Prayer:- Appeals filed under Clause 15 of Letters Patent against the common order, passed by this Court dated 25/4/2012, made in W.P.Nos.18273 to 18275 of 2006.

W.P.Nos.18273 to 18275 of 2006 are preferred under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorari to call for the records of the first respondent herein in TNGST No.1662041/2001-02,TNGST No.1662041/2003-04 and TNGST No.1662041/2002-03 respectively dated 31.3.2006 and quash the same in so far as the denial of deferral of sales tax on the turnover of Rs.8,12,27,823/-, Rs.14,15,36,795/- and Rs.9,26,82,244/- respectively being turnover relating to sale of Steel Scrap made by the petitioners from their unit located at G.16-18 SIPCOT Industrial Park,Irrungattukottai,Sriperumbudur Taluk Kancheepuram District, Tamil Nadu.

For appellant : Mr.N.Prasad
(in all WPs) for Mr.N.Inbarajan

For respondents : Mrs.Narmada Sampath
Additional Government Pleader VIII
for R.R.1 and 2.(in all WAs)
Asst.by Mr.V.Haribabu, Spl/GP(T)
Mr.Ramesh Venkatachalapathy
for R.3 (in all WAs)

COMMON JUDGMENT

(Judgment of the Court was made by Subramonium Prasad,J)

These writ appeals are directed against the common order, dated 25/4/2012, passed in W.P.Nos.18273 to 18275 of 2006, by which the learned Single Judge, refused to accept the case of the appellant, challenging the denial of deferral of sales tax, on the turnover of Rs.8,12,27,823/-, Rs.14,15,36,795 and Rs.9,26,82,244/-, for the year 2001 - 02, 2002 - 03 and 2003 - 04, respectively.

2. Facts in brief are as follows:-

The Government of Tamil Nadu, in G.O.Ms.No.500, Industries (MIG - II) Department, dated 14/5/1990, granted benefit of free sales tax deferral, for new units, to be started, in 75 backwards taluks. Relevant paragraphs are extracted hereunder:-

> "4. With a view to encourage more industries in Tamil Nadu, the Government direct that the following concessions also be made available to the industries:
>
> (a) For the industries to be started in the 75 backward taluks i.e. Other than the 30 most backward taluks, from among the 105 backward taluks, and in the industrial estates developed by any of the Government agencies including Madras Export Processing Zone, Madras Metropolitan Development Authority, the scheme of interest free sales tax loan/deferral ordered in the Government order first, third and fourth read

above is modified as follows:

(i) For the existing units undertaking expansion or diversification, deferral of sales tax will be given for nine years and the total amount thus given shall not exceed 80% of the additional investment made in fixed assets.

(ii) For the new units, the total amount of deferral of sales tax will be given for nine years to the full extent of the total investment made in fixed assets.

(b) The interest free sales tax deferral scheme is extended to the expansion (Part-I) as well as to the starting of new industries (Part-II) in the other areas also, where this scheme was not in vogue hitherto. The deferral of sales tax for the industries in these area will be for five years subject to a maximum of 60% of the total investment made in fixed assets in the case of new industries and 50% of the additional investment in fixed assets made in the case of expansion/diversification, of the existing industries.

(c) As a gesture to the industries to be set up in any part of Tamil Nadu with an invest in fixed assets of more than Rs.50 crores, a special incentive of deferral of sales tax for a period of 9 years to the extent of total investment made in fixed assets will be given. This deferral concession will also be available to the existing industries going in for expansion/diversification with an additional investment in fixed assets for more than Rs.50 crores.

5. The sales tax deferral/waiver of expansion/diversification ordered in paras 3-4 above is subject to the sales tax payable on products manufactured by the capacity created by expansion/diversification units only.

6. The industries in the Most backward taluks and in the SIPCOT Complexes at Cuddalore, Manamadurai and Pudukottai can opt either for the full waiver of sales tax for a period of five years ordered in para 3 above or for the deferral of sales tax for nine years as applicable to the industries in the backward taluks ordered in para 4(a) above. The option should be exercised along with the application to be submitted to the authority for issuing eligibility certificate. The option once exercised and accepted will be final and cannot be changed.

7. The application for interest free sales

tax deferral should be filed before the General Manager, District Industries Centre concerned in the case of small scale industries and before SIPCOT in the case of medium and major industries before the commencement of commercial production.

8. The above scheme will be applicable to small, medium and major industries as the case may be. The deferral/waiver period will commence from the date of commencement of commercial production after the completion of the envisaged project. Such commencement shall be on or after the date of issue of this order, for eligible units.

9. The General Manager, District Industries Centre and SIPCOT will be the competent authorities to issue eligible certificates in respect to Small Scale industries and major and medium industries respectively. The respective sales tax assessing authority will assess the sales tax liability of the units for each year. The sales tax authorities concerned, based on the assessments will raise demands for deferral of sales tax without interest or waiver of sales tax after commencement of production by the units. But the tax payable for the year will be deferred/waived within the overall ceiling for which the eligibility certificate issued by the authority. The deferred instalments shall be payable by the assessed units after the completion of the period of deferral together with the sales tax of the current year, without any interest thereon. In the case the units avails the complete deferral/waiver benefit before the completion of specified deferment period of 5 years or 9 years as the case may be, the unit has to pay the normal sales tax immediately after the date of full availment of eligible deferral amount. The assessee of the unit for which the sales tax has been waived will start paying the current sales tax dues after the completion of the waiver period or immediately after the full availment of eligible waiver amount, whichever is earlier. However, the deferred amount of sales tax for 5 years or 9 years as the case may be, has to be paid after the completion of the deferral period along with the current dues, i.e. In the case of deferral of 9 years the amount deferred in the first year being payable along with the sales tax due in the 10th year, the amount deferred in the second year

being payable along with the sales tax dues in the 11th year and so on.”

3. The State, thereafter, passed G.O.P.No.92, Commercial Taxes and Religious Endowments, dated 22/2/1991. This Notification was issued, in exercise of powers, conferred by sub-Section (i) of Section 17 - A of the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959). The aforesaid Notification, granted a nine year deferral of sales tax, for new industries, in 75 backward Taluks, on the sale of the products, manufactured by the industry, upto the ceiling of total investment, made in fixed assets, subject to the condition that the units produce to the assessing authority, an eligibility certificate, issued by the State Industries Promotion Corporation of Tamil Nadu (SIPCOT).

4. The appellant, set up a factory, for the manufacture of assemblies and sub assemblies of sheet metal components, which are automobile parts. An application was made to SIPCOT, for an eligibility certificate, under G.O.Ms.No.500, dated 14/5/1990, r/w. G.O.P.No.92 (CT & RE), dated 22/2/1991.

5. Eligibility certificate was issued to the appellant, on 10/4/2001, by SIPCOT. Relevant portion is extracted hereunder:-

“2. Subject to the conditions mentioned in the sales tax deferral scheme and those mentioned hereinafter, the holder of this certificate shall be entitled to the benefit of IFST Deferral Scheme for nine years as per G.O.Ms.No.500 Inds.(MIG.II) Dept dated 14/5/1990 ad all other Government Orders as are in and may come into force from time to time including G.O.Ms.No.92, Commercial Taxes & Religious Endowment Department, dated 22/2/1991 and G.O.Ms.No.119, Commercial Taxes & Religious Endowment Dept, dated 13/4/1994 and G.O.Ms.No.127, Inds.(MIG-II) Dept., dated 22/3/2000.

3. Based on the above, the holder of this E.C will be eligible for deferral of sales tax not exceeding Rs.1521.17 (Rupees One thousand five hundred and twenty one lakhs and seventeen thousands only) interest free for nine years from the month in which the holder's unit commenced its commercial production, i.e., from 1/7/1998 to 30/6/2007.

4. The actual shall however be the least of the amounts mentioned in 4.1 and 4.2 below:-

4 .1 (a): Actual sales tax liability on

account of General Sales Tax Act, Central Sales Tax Act, Additional Sales Tax, Surcharge and Additional Surcharge liability accruing in favour of the Government during the period of deferral on the sale of finished goods manufactured by the unit.

4.2: 100% of the value of initial gross fixed assets i.e., Rs.1521.17 lakhs (Rupees One thousand five hundred and twenty one lakhs and seventeen thousand only)."

6. A perusal of the above mentioned paragraphs would show that the eligibility was from 1/7/1998 to 30/6/2007. The appellant Company declared in its letter, dated 27/4/2001 that it had remitted sales tax, upto 31/3/2001 and requested re-schedulement, for the period of eligibility from 1/4/2001 to 31/3/2010. This request of the appellant was accepted, by letter No.ID/ST/JBMSL/2001, dated 14/5/2001. The relevant paragraph reads as under:-

"3. Based on the above, the holder of this EC will be eligible for deferral of sales tax not exceeding Rs.1521.17 lakhs (Rupees One thousand five hundred and twenty one lakhs and seventeen thousands only) interest free for nine years from the month in which the holder's unit commenced its commercial production i.e., from 1/7/1998 to 30/6/2007. However, as the company has declared in its letter, dated 27/4/2001, that it has remitted sales tax upto 31/3/2001 and requested re-schedulement, the period of eligibility has been rescheduled as from 1/4/2001 to 31/3/2010 as per powers delegated by the Government in their Lr.No.229, Inds.Dept.dated 27/5/1991. The sales tax benefit for the period from 1/7/2007 to 31/3/2010 will be restricted to actual sales tax remitted during the period from 1/7/1998 to 31/3/2001."

7. An issue arose as to whether the deferral would be limited only to the particular product, i.e., sheets or would it also include to scrap. This issue was settled by a judgment of this Court, in COMMERCIAL TAX OFFICER, THIRUPPARANGUNDRAM ASSESSMENT CIRCLE & OTHERS Vs. THIAGARAJAR MILLS LTD {(2004) 134 STC 58 (Mad)}, (W.P.No.17985 of 1999), stating that the object of G.O.P.No.92, dated 22/2/1991, is to promote industrialization, within in the State of Tamil Nadu and that it would be only in consonance with the spirit of the Government Order that the benefit of deferral of sales tax is extended on the sale of waste and scrap. This Court, therefore, held that

expression "product" found in the G.O., must be given a wider meaning to include waste and scrap, to sub-serve the object of the scheme of the incentive.

8. The appellant, therefore, asked for a clarification, on the basis of the above said order, that the appellant should be given the benefit of scrap also. Appellant also relied on a judgment of the Hon'ble Supreme Court, in ITC BHADRACHALAM PAPER BOARDS LTD., Vs. STATE OF ANDHRA PRADESH {126 STC 541}, wherein the Hon'ble Supreme Court, observed as under:-

> "3. The High Court was of the view that the main production activity of the appellant was the manufacture of paper and paper boards, that coal-ash was only the left-over residue after burning coal as fuel in the manufacture of paper and paper boards, and that, therefore, the appellant was not entitled to the exemption on the sale of coal-ash under G.O. Ms. No. 606, dated April 9, 1981 as the coal-ash was not a product of the appellant. The aforesaid order gives "complete exemption to the products of the industry from sales tax for a limited period of five years". The coal-ash that is produced as a result of the burning of coal as fuel is a product of the appellant-industry though it might not be the principal product for which the industry was established. Even so, being a product of the industry, it is entitled to the exemption given by the said order. This second question, therefore, must be answered in favour of the appellant."

9. The application made by the appellant, seeking benefit of deferral in sales tax, for sale of scrap, was rejected by SIPCOT, by its order, dated 11/5/2004. The rejection was challenged by the appellant, in W.P.No.6754 of 2005. Writ Petition was allowed. Since this judgment will have a significant bearing, on the final outcome of this case, the same is being quoted in its entirety.

> "5. I have heard Mr. N. Prasad, the learned Counsel appearing for the petitioner as well as Mr. Devaraj, learned Counsel for the first respondent and Mr. Shanmuga Sundaram, the learned Government Advocate representing the respondents 2 to 4, and perused the records.
>
> 6. The contention of the learned Counsel for the petitioner is that the said steel scrap is a by-product of the main product which they are manufacturing and they have also approached the Government that the by-product also should

be included as part of deferral scheme which they are enjoying.

7. It is seen from the records that the Government directed the Standing Committee on Incentives for Industrial Promotion in respect of this issue. Even though the first respondent is the authority to grant Certificate as per the statutory notification, it is not clear as to why the matter was sent to the Standing Committee. It transpires that the matter was pending before Standing Committee and as stated in the counter affidavit filed on behalf of the first respondent that on 16.4.2004, the Standing Committee felt that the product is not indicated in the application for deferral / waiver and, therefore, it should not be qualified for IFST concession and directed the first respondent to declare accordingly. Instead of applying their mind, as directed by the Committee, the first respondent simply issued the impugned order dated 11.5.2004 stating that the writ petitioner is not entitled for deferral concession in the matter of steel scrap, which are found available after the manufacturing process are over.

8. The only short question before this Court is that having granted deferral concession for the product manufactured by the writ petitioner, whether the steel scrap, which is the by-product, should also be covered by the term 'product'. In fact, the entire concession was conceived and executed only because the Industries were directly located in backward regions and the scheme itself does not wipe out the tax liability of the dealer but only postpones the payment by certain years. If it is viewed in this context, there will not be any difficulty on the part of the first respondent, who is empowered to grant Certificate, to consider the case of the petitioner in objective manner and also having the purpose behind the grant of deferral benefit.

9. The learned Counsel for the petitioner brought to the notice of this Court the decision reported in 134 STC 58 [Commercial Tax Officer, Thirupparangundram Assessment Circle and Ors. v. Thiagarajar Mills Ltd.]. A Division Bench of this Court had an occasion to consider

whether the cotton waste is a by-product in a Spinning Mill. After elaborately setting out the manufacturing process in a cotton mill, the Division Bench in paragraph 5 and 6 of the judgment held as follows:

> 5. The word "product" has not been defined in G.O. P. No. 92. It only refers to the products manufactured by the new units established in the backward taluks to which the G.O. applies. The G.O. clearly recognises that the unit may manufacture more than one product. In the absence of any definition limiting the scope for the product only to the principal product, for the manufacturing of which the unit is established, the term "product" is capable of comprehending within its by-product as well, especially when such by-products are themselves distinct commercial goods, which are capable of being marketed separately and which are also subjected to tax as an item of taxation.
>
> 6. Moreover, the scheme of incentives formulated by the State is one which is intended to encourage establishment of new industries. The deferral on sales tax liability, while it would not include the liability, if any, on the purchase or raw material extends to all the products manufactured, is intended to enable the industries to become financially viable and to encourage entrepreneurs to set up new units in backward taluks. In the context, in which the word "product" is used widen meaning to the term is to be assigned with a view to subserve the purpose of the scheme of incentives. There is nothing in the G.O. which would come in the way of the products mentioned in the G.O. being regarded as comprehending by-products, which are distinct commodities as well, especially when such by-product is also the result of the process which renders that by-

product distinct and different from the material from which that by-product is obtained.

10. While considering the deferral scheme, the Supreme Court had an occasion to consider a similar issue in the decision reported in 126 STC 541 [ITC Bhadrachalam Paper Boards Ltd. v. State of A.P.] wherein the main production activity was manufacture of paper and paper products and the coal ash, which was left over as a residue because burning coal was used as fuel, would be a by-product was considered and the Supreme Court found that the coal ash was produced as a result of burning of the coal as part of the appellant industry and held that though it may not be the principal product for which the industry was established but, yet, it will be a by-product qualifying for the concessional scheme. When there is a clear authoritative pronouncement of this Court and the Supreme Court, it is not understandable as to why the first respondent should shirk the responsibility imposed on them when deciding the elementary issue, which has been projected in this writ petition.

11. In the light of the above, the writ petition succeeds and will stand allowed. The impugned order of the first respondent dated 11.5.2004 is hereby quashed and the first respondent is directed to re-consider the steel scrap produced in the writ petitioner industry as coming within the meaning of the word "product" so as to enjoy the Eligibility Certificate as per Section 4(1)(a) of the Certificate dated 10.4.2001 in accordance with the law laid down herein and accord all the necessary benefits arising out of the same. This exercise shall be done within four weeks from the date of receipt of a copy of this order. However, the parties are directed to bear their own costs. In view of the same, no further orders are necessary in W.P.M.P. No. 7423 of 2005 and the same shall stand closed."

10. In the light of this judgment, the appellant filed a representation, dated 31/10/2006 and a reminder, dated 26/11/2007. Despite the order passed by the High Court, in W.P.No.6754 of 2005, reported in {(2007) 6 VST 527}, the assessing authority, refused to give deferral, to the appellant, for the sale of scrap on the turnover of Rs.8,12,27,823/-,

Rs.14,15,36,795 and Rs.9,26,82,244/-, for the years 2001 - 02, 2002 - 03 and 2003 - 04, respectively. This order, was challenged in the instant writ petitions in W.P.Nos.18273 to 18275 of 2006. A learned single judge by the impugned judgment has dismissed the writ petitions.

11. Heard Mr.N.Prasad for Mr.N.Inbarajan, learned counsel for the appellant, Mrs.Narmada Sampath, learned Additional Government Pleader for the respondents 1 and 2 and Mr.Ramesh Venkatachalapathy for the third respondent.

12. Relevant paragraphs of the impugned common order, dated 25/4/2012, are extracted hereunder:-

> "26.Though reliance was placed upon a judgment in (2007) 6 VST 527 (Mad), in which a direction was given to the SIPCOT to reconsider the issuance of fresh eligibility certificate, the same was rejected. It was rather unfortunate when that writ petition was argued by the counsel for the petitioner on 13.9.2006, the counsel for the petitioner did not bring it to the notice of the court the pendency of the present three writ petitions, i.e., W.P.Nos.18273 to 18275 of 2006, especially wherein they have challenged assessment orders issued by the authorities. Without the benefit of the stand of the Sales Tax Department, the matter was disposed of on a piecemeal basis. When matters are interconnected, it is the duty of the counsel to bring it to the notice of the court the pendency of other matters in relation to the same subject. Even otherwise this court merely directed the respondents to reconsider the question as to whether the steel scrap produced by the petitioner industry will qualify to be the product so as to enjoy the eligibility certificate.
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> 27.When once the eligibility certificate is given, the petitioner is bound by the same. The Sales Tax authorities are merely acting on the terms of the eligibility certificate. Thereafter, when the petitioner moved the authorities for reconsidering their stand, impliedly they have said that the earlier eligibility certificate did not include the scrap produced during the manufacturing of goods. Having sought for clarification and failed in their attempt, they cannot now make use of this court to seek to expand the scope of the eligibility certificate. The eligibility

> certificate once granted cannot be reviewed by this court under any circumstances as it is only the beneficial scheme for deferral. It is not the case of the petitioner that tax is levied on a different basis. On the other hand, the liability to pay the tax was accepted. It was only the deferral of tax payment as concession that was obtained by the petitioner is now sought to be revised. The eligibility certificate followed by an agreement reached between the parties cannot be reopened at the instance of the petitioner that too sitting under Article 226 of the Constitution. In different circumstances, the common sense meaning of certain products can mean different things and difference places especially in the context of deferral scheme."

13. A perusal of the common order would show that this runs contrary to the earlier order passed in W.P.No.6754 of 2005 for the same appellent. This Court, by its order, dated 31/3/2006, categorically relying upon THIAGARAJAR MILLS LTD's case {(2004) 134 STC 58 (Mad)}, and the judgment of the Hon'ble Supreme Court, in ITC BHADRACHALAM PAPER BOARDS LTD., Vs. STATE OF ANDHRA PRADESH {126 STC 541}, quoted supra, came to the conclusion that left over residue would be a by-product and the sale of the by-product is also eligible for deferral of sales tax.

14. Reasoning of the learned Single Judge that earlier order was passed without hearing the authorities, is not correct. A perusal of the order, dated 13/9/2006, made in W.P.No.6754 of 2005, would show that Government Advocate was very much present.

15. Mrs.Narmada Sampath, learned Additional Government Pleader would contend that W.P.No.6754 of 2005 was challenged by Technical Stampings Automotive Ltd., which thereafter, became JBM Sungwoo Ltd., which thereafter, became Sungwoo Gestamp Hitech (Chennai) Ltd. She would further submit that till date, SIPCOT has not granted any eligibility certificate in favour of the present appellant.

16. According to her, in the absence of the receipt of any modified eligibility certificate from SIPCOT, tax levied on the sale of steel scrap, for the years 2001 - 02, 2002 - 03 and 2003 - 04, is perfectly valid. According to her since the eligibility certificate has not been amended to include steel scrap, deferral cannot be granted to the appellant. We are afraid that

argument of the learned Additional Advocate General can not be accepted. Appellant had applied for change of name, as early as on 30/3/2012. Letter, dated 30/1/2012 which gives the entire shareholding pattern of the Company, from the time, the appellant was constituted, as under:-

No.SGH/SIPCOT/2011-12/001 30th January 2012
To
The Chairman and Managing Director
State Industries Promotion Corporation
of Tamil Nadu Ltd (SIPCOT)
No.19 A Rukmani Lakshmipathy Road
Egmore, Chennai 600 008.
Respected Sir,

With reference to the above cited communications and discussions had with SIPCOT officials, we hereby submit the following facts for your kind perusal and necessary remedial action.

Our Company was allotted 15 acres of developed industrial plot by SIPCOT at Irungattukottai Industrial Complex, Kancheepuram District, Tamil Nadu for the manufacture of automobile parts.

Incorporation:

Sungwoo Gestamp Hitech (Chennai) Limited (Incorporated asJBM Sungwoo Ltd on 01 July 1997 and subsequently known as Technical Stampings Automotive Ltd vide fresh certification of incorporation issued by Registrar of Companies dated 29th Nov 2005) is working under the Joint venture between (i) M/s. Sungwoo Hitech Company Ltd., Korea (ii). M/s. Gestamp Toledo, Spain to operate a "manufacturing Company" for manufacture of "automobile parts" to supply to Original Equipment (Car) Manufacturers (OEMs).

The entire project in its technicality, functionality and business model belongs to the Korean promoter M/s. Sungwoo Hitech Company Ltd, Korea (Sungwoo Korea).

By virtue of our parent company, M/s. Sungwoo Hitech Company Limited, Korea's

a. Worldwide connectivity to Hyundai Motor Groups

b. Technical supremacy in this field of operations

c. Unique standing as OEM supplier of the particular range of products

d. Research & Development in technology and

e. Marketing standing.

The project in India in the name of M/s. Sungwoo Gestamp Hitech (Chennai) Limited was conceived, successfully established and expanded to reach the current status and we are the No.1 Tier 1 vendor mainly solely for Hyundai Motor India (HMI) and providing employment for more than 2000 employees including direct and indirect workers (the "Indian Business"). The company has focused its operation from the beginning to manufacture and supply sheet metal components to HMI.

Even though there are financial/equity participation by other investors, the entire Indian business in substance, belongs to, controlled and managed in entirety by Sungwoo Hitech, Korea.

Share Holding Pattern

We would like to reiterate that even though there was a change in shareholding pattern, the shareholders have ensured and will ensure at all times the main purpose of the Lease Deed has, is and will be complied with at all times, as described in the last recital of the Lease Deed: the plot is being utilised and has the character of an industrial plot for the benefit of other plots of the SIPCOT. Therefore, the purpose contemplated in Section 15 of the Lease Deed has been complied with.

We would also like to reiterate that we have complied with all the statutory requirements/payments towards the maintenance of SIPCOT, time and when demanded and we have no dues pending as on date.

Share holding of Sungwoo Gestamp Hitech (Chennai) Limited since its inception is given below:-

Share Transfer Date	Shareholders	%
27th March 98	1. M/s. Sungwoo Hitech, Korea 2. M/s. JBM Tools Ltd 3. M/s. Mitsubishi Corporation	31.00% 50.00% 19.00%

Share Transfer Date	Shareholders	%
9th October 98	1. M/s. Sungwoo Hitech, Korea 2. M/s. JBM Tools Ltd 3. M/s. Mitsubishi Corporation 4. M/s. Five Star Engineering Corp, Korea	26.00% 50.00% 19.00% 5.00%
26th March 2003	1. M/s. Sungwoo Hitech, Korea 2. M/s. Tata Autocomp Systems Limited 3. M/s. Mitsubishi Corporation 4. M/s. Five Star Engineering Corp, Korea	26.00% 50.00% 19.00% 5,00%
16th March 2005	1. M/s. Sungwoo Hitech, Korea 2. M/s. Tata Autocomp Systems Limited 3. M/s. Five Star Engineering Corp, Korea	45.00% 50.00% 5.00%
4th Feb 2009	1. M/s. Sungwoo Hitech, Korea 2. M/s. Gestamp Toledo 3. M/s. Five Star Engineering Corp, Korea	45.00% 50.00% 5.00%

We have duly informed about the above changes to SIPCOT time to time.

We had provided hereunder a brief about the background of each share transfers effected during the previous period.

Share Transfer Details

Share transfer on 9th October 1998

From : M/s.Sungwoo Hi-tech Company Ltd., Korea.

To : M/s. Five Star Engineering Corporation, Korea

Holding % : 5%

Our Company has effected share transfer from M/s. Sungwoo Hitech Company Limited, Korea to M/s. Five Star, Korea, which is one amongst the Sungwoo group companies in Korea. This restructuring has been done to bring in money for future expansion from different companies.

Share transfer on 26th March 2003

From : JBM Tools Ltd

To	:	Tata Autocomp Systems Limited
% of shares	:	50%

JBM Tools Ltd, transferred their shares to Tata Autocomp Systems Limited, since Tata Autocomp Systems Limited were one of the promoters of JBM Tools Ltd., hence they have directly invested into the project by transferring the shares into their name. We confirm that while the shareholders have changed the shareholding pattern has not undergone a change in that the original promoters of the project viz., Tata Autocomp Systems Limited have now directly invested in the project.

The Company is thus entirety is vested with the original principal promoter only, who alone manufactures the auto parts under their own technology, originally envisaged.

Share transfer on16th March 2005

From	:	M/s. Mitsubishi Corporation
To	:	M/s. Sungwoo Hitech Company Ltd, Korea
% of shares	:	19%

Existing shareholder M/s. Sungwoo Hitech, Korea has bought the shares M/s. Mitsubishi Corporation to enable the company to concentrate on Hyundai, since Hyundai being Korea based customer.

Share transfer on 4th Feb 2009

From	:	Tata Autocomp Systems Limited
To	:	M/s. Gestamp Toledo
% of shares	:	50%

Our Company has allowed M/s. Gestamp Toledo to buy the shares from M/s. Tata Autocomp Systems, since Gestampt being a global auto player and supplying to Volkswagen, Ford, BMW, Nissan, etc., and company would like to take advantage of Gestamp global experience to support Hyundai operations.

We, Sungwoo Hitech has ensured and never sold its shareholding (as forewarned in Section 13 (ii) but instead has always controlled and manged the company.

The company thus in entirety is dedicated with the original principal customer Hyundai Motor India Limited, and employed 2000 employees including indirect labour and continues to grow with Hyundai and bring prosperity to Irungattukottai area.

We had already furnished the replies and

requested details to various letters of SIPCOT and request SIPCOT to condone the default and to approve the change in name, directors and shareholding pattern of the Company.
We are ready to submit any other proof that may be required by you.
We therefore, request you to kindly approve the transfer of the shares and we will be glad to provide necessary additional documents, if required for this process."

17. For the reasons best known to the State, Application has not been considered. Sales tax defferal is granted to the unit which has been established pursuant to the scheme of the government.

18. The short question before the Court is as to whether the appellant is entitled to deferral towards the sale of scrap. This issue has been answered, in favour of the industry, which has set up its unit, in accordance with the Government orders. The appellant is having its manufacturing unit in its very same place. The appellant is manufacturing steel sheets. Scrap is a by-product. The Hon'ble Supreme Court and this Court have repeatedly held that the turnover by sale of by-product would also be entitled to the benefit of deferral scheme. Benefit is being given to the industry which has been set up in a remote place in accordance with the government order. The technical objection raised by the appellant therefore, cannot be sustained. In the facts of this very case, the issue stands governed by the order, dated 13/9/2006, made in W.P.No.6754 of 2005, whereby the order, dated 11/5/2004, rejecting the application has been set aside by this Court. The authorities were therefore, duty bound to grant the deferral. In fact, the authorities have actually committed contempt of the order of this Court.

19. The instant writ appeals are allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

mvs/gsp

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Deputy Commercial Tax Officer
   Sriperumbudur Assessment Circle
   Vaadarajapuram.

2. The Assistant Commissioner (CT)
   Kancheepuram.

3. The State Industries Promotion
   Corporation of Tamil Nadu Ltd
   19 A Rukmani Lakshmipathy Road
   Post Box No.7223
   Egmore,
   Chennai 600 008.

+1cc to Mr.N.Inabarajan, Advocate, S.R.No.273

+2cc to Mr.Ramesh Venkatachalapathy, Advocate, S.R.No.1209

+1cc to the Spl.Government Pleader (Taxes), S.R.No.1124

W.A.Nos.1177 to 1179 of 2012

EV(CO)
KAK(19/02/2019)