

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.14377 of 2015

and M.P.No.2 of 2015

M/s.TCI Chemicals (India) Pvt. Ltd.,
represented by its Executive Director - Takeshi Inoue,
Plot No.B-28, Phase II, 5th Cross Street,
MEPZ-SEZ, Tambaram,
Chennai - 600 045.

...Petitioner

Vs

1. The Assistant Commissioner (CT),
Pallavaram Assessment Circle,
Chennai.
2. The Principal Commissioner & Commissioner of
Commercial Taxes,
Ezhilagam, Chempauk,
Chennai - 600 005.

... Respondents

Prayer: PETITION filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorari calling for the records of the 1st respondent in the impugned proceedings in CST/100311/2013-14 dated 27.03.2015 and quash the same as being contrary to the provisions of Special Economic Zones Act, 2005.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.Hariharan, G.A. (T)

सत्यमेव जयते

ORDER

Pursuant to the order of this Court dated 18.09.2019 directing the petitioner to appear before the Assessing Authority on 24.09.2019 with available 'C' and 'I' Forms that would be taken into account by the Assessing Authority in computing the liability to tax, today, a communication dated

26.09.2019 addressed by the Assessing Officer to the learned Special Government Pleader is placed on record. The communication is extracted below in entirety.

'Rc.No.A4/609/2018

Dated: 26.09.2019

Sir,

Sub: CST Act 1956 - Tvl.TCI Chemicals India (P) Ltd., Assessment for the year 2013-14 - writ petition filed in W.P.No.14377/2015 filed - Regarding.

Ref: 1. W.P.NO.143377/2015 and M.P.NO.2 of 2015.

2. The Joint Commissioner (ST), Chennai (East) Division, Rc.4888/2015/A6, Dated 18.09.2018

3. Phone message received from SGP Office Chennai on 18.09.2019.

I submit that Tvl.TCI Chemicals India (P) Ltd were assessed on a total and taxable turnover of Rs.7,76,24,011.00 and Rs.4,86,62,671.00 respectively in the office proceedings is CST/100311/2013-14, dated 27.03.2015 for which Tvl.TCI Chemicals India (P) Ltd filed writ petition 143377/2015 and M.P 2 of 2015 which is pending in the Honorable High Court.

In the meantime, they have filed C forms and Form 1 and requested for the revision u/s 84 of the TNVAT Act in the sec 9(2) of the CST Act for the assessment for 2013-14, their requisition has to be considered.

In view of the above, the subsequent production of C forms and Form I, the Taxable turnover have carried Rs.4,66,65,346.00 and the exemption to be arrived at Rs.3,09,58,665.00. Tax due will be arrived at Rs.14,87,666.00, the Total Tax paid by the dealers Rs.19,17,553.00. Hence Excess amount paid by them is Rs.4,29,867.00.

The dealer already submitted C Form : 1,71,86,666.00

C Form now filed : 1,10,00,029.00

Total C form filed : 2,81,86,695.00

The dealer submitted entire C form for their interstate Sales.

This is for favour of kind information.

Sd/-

T.Ravichandran

Assistant Commissioner (ST) (FAC)

Pallavaram Assessment Circle'

2. Thus nothing further survives as far as the present Writ Petition is concerned, seeing as the Assessing Authority has concluded that though the tax due was a sum of Rs.14,87,666/-, the total tax remitted by the dealer/petitioner was a sum of Rs.19,17,553/- and the excess was Rs.4,29,867/-.

3. This is recorded. The Authority is directed to dispose the Section 84 application dated 05.05.2015 along the lines of the communication extracted above dated 26.09.2019 within a period of two (2) weeks from today.

4. It is made clear that the legal issue raised in this Writ Petition with regard to the taxability on supplies made by a Special Economic Zone to other Special Economic Zones and 100% Export Oriented Unit is left open to be decided in an appropriate matter.

5. The Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

sl

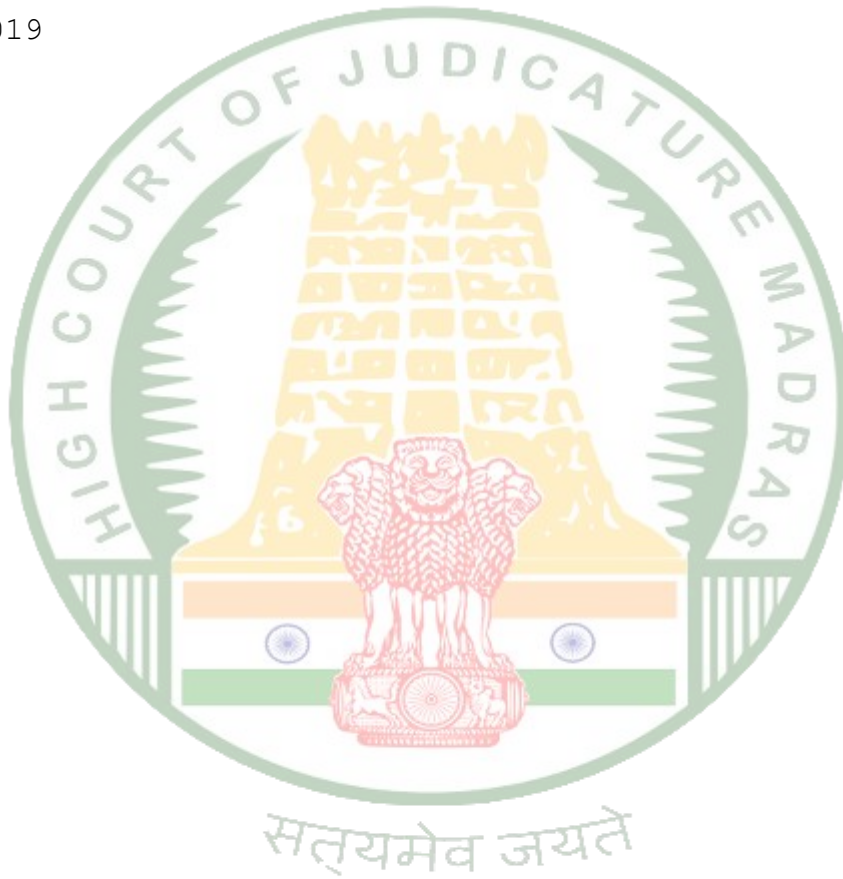
To

1. The Assistant Commissioner (CT),
Pallavaram Assessment Circle,
Chennai.
2. The Principal Commissioner & Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

+1 cc to Special Government Pleader Taxes sr84487
+1 cc to Mr.R.Hemalatha Advocate sr83916

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pp(co)
aa04/11/2019



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