IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P. No.21344 of 2004
and
W.P.M.P. No.25788 of 2004

S.A.Aanandan Spinning Mills Pvt. Ltd.,
rep. by its Managing Director A.Ilavarasu,
Post Box No.153, Srivilliputtur Road,
Rajapalayam, Virudhunagar Dist - 626 117. ... Petitioner

Vs

1.The Chief Electrical Inspector,
T.N.E.B. Thiru.Vi.Ka. Industrial Estate,
Guindy,
Chennai - 600 032.

2.The Superintending Engineer,
Virudhunagar Electricity Distribution Circle,
Virudhunagar Post & Dist. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records from the file of the 1st respondent relating to his order dated 26.03.2003 in letter No.14251/A1/2002 and to quash the same and to direct the 1st respondent to give exemption of electricity taxes for the petitioner Mill from 03.04.2000 to 26.09.2000 also for a period of 5 months and 23 days.

For Petitioner : Mr.S.Krishnasamy

For Respondents

For R1 : Mrs.K.Bhuvaneswari
Additional Government Pleader

For R2 : Mr.S.K.Rameshwar
Standing Counsel for TNEB

ORDER

The prayer sought for in the present writ petition is to call for the records on the file of the 1st respondent relating to his order dated 26.03.2003 in letter No.14251/A1/2002 and to quash the same and to direct the 1st respondent to grant exemption of electricity taxes to the petitioner Mill from 03.04.2000 to 26.09.2000 also, for a period of 5 months and 23 days.

2.By G.O.No.47, Energy Department, dated 29.11.1993, the Government had announced full exemption from payment of Electricity Tax on consumption of energy for a period of three years for all new units. According to the learned counsel for the petitioner, the Mill was extended with HT supply w.e.f. 27.09.1997 and as such, they were eligible for exemption from payment of Electricity Tax for three years, i.e. from 27.09.1997 to 26.09.2000. However, the 1st respondent, in the impugned letter dated 26.03.2003, had stated that, since, the petitioner unit had commenced its production w.e.f. 03.04.1997, they were eligible for exemption only till 02.04.2000.

3.The learned counsel for the petitioner submitted that, during the period between 03.04.1997 and 27.09.1997, they were carrying out the manufacturing activities using their own generators and did not avail the electricity supplied by the respondents herein and as such, it cannot be said that the exemption is extended for that period also, where, they had utilised their own electricity.

4.The learned Standing Counsel for the 2nd respondent submitted that, vide G.O.No.47, the exemption is extended for a period of three years from the date of commencement of manufacture or production of principal products and as such, there is no infirmity in the order passed by the 1st respondent, stating that the petitioner is entitled for exemption from 03.04.1997.

5.I am unable to agree with the submission of the learned counsel for the respondents. The object of extending the full exemption from payment of Electricity Tax to the new units is for the purpose of promoting rapid industrial development in the State and to lessen the burden of the newly commenced units. The very purpose of granting the exemption is based on the consumption of the energy, which is being supplied by the 2nd respondent. When the petitioner themselves had generated the electricity and have commenced the production utilising their own electricity, I do not find any logic in the letter impugned in the present writ petition, stating that the exemption commenced from 03.04.1997 itself. As a matter of fact, G.O.No.47 also speaks about the exemption from payment of Electricity Tax on the "consumption of energy". As such, the date of "commencement of the manufacture" referred to in G.O.No.47 would only mean to include the production, utilising the electricity supplied by the respondent Corporation and not the production using the petitioner's own generators.

6.In the light of the above observations, there is no justification on the part of the 1st respondent herein to state that the exemption granted to the petitioner Mill commences from 03.04.1997. As such, the impugned letter dated 26.03.2003 on the file of the 1st respondent is quashed.

7.Consequently, it is clarified that the full exemption from payment of Electricity Tax on the consumption of energy for the petitioner unit shall be for the period from 27.09.1997 to 26.09.2000. Any excess amount paid by the petitioner, which includes the exemption, shall be adjusted by the 2nd respondent Board in the petitioner's future bills.

Accordingly, the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

mkn

To

1.The Chief Electrical Inspector,
T.N.E.B. Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai - 600 032.

2.The Superintending Engineer,
Virudhunagar Electricity Distribution Circle,
Virudhunagar Post & Dist.

+1cc to Mr.S.Krishnasamy, Advocate, S.R.No. 13542
+1cc to Mr.S.K.Rameshwar, Advocate, S.R.No. 13369
+1cc to the Government Pleader, S.R.No. 14157

W.P. No.21344 of 2004 and
W.P.M.P. No.25788 of 2004

SJ(CO)
GN(25/03/2019)