IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.11288 of 2005
and
WPMP.No.12290 of 2005

M/s.Indian Organic Chemicals Ltd.,
Now known as M/s.Futura Polyesters Ltd.,
1, Kamarajar Salai, Manali,
Chennai 600 068. ... Petitioner

Vs.

The Commercial Tax Officer,
Manali Assessment Circle,
Chennai. ... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the impugned proceedings of the respondent in CST/49999/96-97 on his files, quash the proceedings dated 14.03.2005 and further direct the respondent to grant the petitioner's claim of concessional rate of tax @ 2% for the period from 07.03.1997 to 31.03.1997 by accepting the payment of full tax @ 2% on the turnover of Rs.40,54,136.50/- relating to the transactions effected by the petitioner on 05.03.1997 and 06.03.1997.

For Petitioner : Ms.C.P.Priya
for Mr.B.Raveendran
for M/s.Pavithra Ramani

For Respondent : Mr.M.Hariharan, for AGP (T)

O R D E R

This petition is filed to quash the impugned proceedings of the respondent in CST/49999/96-97, dated 14.03.2005.

2. Section 16 of the Tamil Nadu General Sales Tax Act (hereinafter referred to as the TNGST Act) provides for revision of assessment within a period of 5 years from the date of expiry of the assessment year.

3. The learned Additional Government Pleader appearing for the respondent by placing reliance on the averments in the counter statement submitted that Section 16 of the TNGST Act came to be amended from 01.07.2002 onwards, and the limitation would commence from the date of order of final assessment of the assessing authority. As such, since the original assessment was on 31.05.2002, the time for revision expired only on 31.05.2007.

4. The learned counsel for the petitioner by relying upon Section 16 of the TNGST Act submitted that the assessment for the year 1996-97 itself is bad in law on the ground of limitation. In support of her submission, the learned counsel relied upon the decision of the Division Bench of this Court in W.P.No.3175 of 2006, dated 27.08.2013. The Hon'ble Division Bench in the aforesaid case had held that the amended provision of Section came into effect from 01.07.2002 only and since the assessment order was passed even prior to 01.07.2002, the limitation of 5 years cannot be calculated from the date of final order of the assessment based on amended provision.

5. By applying the ratio laid down by the Hon'ble Division Bench of this Court, it is seen that even in the instant case, the assessment order was passed on 31.05.2002 and the amendment came into effect only on 01.07.2002. In view of the same, the petitioner would be entitled to succeed in the Writ Petition.

6. In the light of the above observations, the impugned proceedings in CST/49999/1996-97, dated 14.03.2005 is quashed. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

pvs
To

The Commercial Tax Officer,
Manali Assessment Circle,
Chennai.

+1 CC to Mr.B.Raveendran, Advocate sr 19091.
+1 CC to The Spl. Govt. Pleader sr 19558.

W.P.No.11288 of 2005

RGN(CO)
SP(27/05/2019)