lIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No. 8605 of 2012
and
M.P. No.1 of 2012

M/s.Vignesh Yarns Private Limited,
88F (17-C) Kamaraj Road,
Tirupur - 641 604
represented by its Managing Director
Mr.T.Sivakumar ...Petitioner

Vs

The Assistant Commissioner (CT),
South circles, Tirupur ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Certiorari, to call for the records relating to the proceedings of the Respondent in TIN No.33332320441/2011-12 dated 13.03.2012 quash the same.

For Petitioner : Mr.S.Raveekumar

For Respondents : Mr.V.Haribabu,
Additional Government Pleader (Taxes)

O R D E R

The issue arising in the case concerns the restriction of sales tax deferral benefit by the Commercial Tax Department.

2. Mr.Haribabu, learned Additional Government Pleader for the Revenue fairly concedes that the issue is covered by a decision of the Division Bench of this Court in Thiru Arooran Sugars Limited, V. State Industries Promotion Corporation of Tamil Nadu Limited and others [(2007) 9 VST 614 (Mad)] and that Special Leave Petitions filed by the Revenue challenging the aforesaid decision before the Supreme Court have also been dismissed in C.A. Nos.6636 to 6640 of 1983 and 175 to 177 of 1985 and S.L.P. No.2611 of 1988 dated 30.03.1997. The Bench in

the case of Thiru Arooran Sugars Limited, Madras V. Commissioner of Income Tax, Madras states as follows:

> '23. In the instant case, it is not in dispute that the total investment of the petitioner is Rs.1,044,21 lakhs and the commercial production was commenced on September 1, 1993 and consequently, they are eligible for waiver of sales tax for a period from September 1, 1993 to August 31, 1998 subject to the ceiling of total investment made in fixed assets. But, merely because the eligibility certificate was issued by the SIPCOT on December 16, 1994, whereunder, the above factual details were not disputed, the certifying authority cannot, at any stretch of imagination, by the impugned proceedings, while rescheduling the period of five years from November 1, 1994 to October 31, 1999, restrict the quantum of waiver of sales tax benefit to the actual sales tax remitted during the period from September 1, 1993 to October 31, 1994, as such attempt would be contrary to the spirit and substance of G.O.Ms.No.500, Industries (MIG-II) Department dated May 14 1990.'

3. The restriction imposed vide communication dated 30.08.2001 issued by the SIPCOT is thus held to be bad in law. The respondent has, pursuant to communication dated 30.08.2001, issued notice dated 21.09.2011 and proceedings dated 13.03.2012 calling upon the petitioner to pay the excess availed deferral amount of Rs.80,42,434/-. The subsequent proceedings and notice are based on the restriction imposed under communication dated 30.08.2001 that have been set aside by me under this order.

4. The impugned order is thus set aside and this Writ Petition, allowed. Connected Miscellaneous Petition is closed. No costs.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner (CT),
South circles, Tirupur.

+1 CC to Spl. Govt. Pleader sr 79260.
+1 CC to Mr.S.Raveekumar Advocate sr 79194.

W.P. No. 8605 of 2012
and
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NR(CO)

SP(26/11/2019)