IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 25.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.2899 of 2004

Tvl.Janatha Textiles,
Rep. by Partner: Manoj R.Shah,
8/1, M.K.Lane, Mahal 3rd Street,
Madurai. ...Petitioner

Vs

1. The State of Tamil Nadu,
   Rep. by the Secretary to Government,
   Fort St.George, Chennai - 9.

2. The Deputy Commissioner (CT),
   Madurai Division, Madurai - 20.

3. The Deputy Commercial Tax Officer,
   Mahal Assessment Circle,
   Madurai - 20. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 2nd respondent in Roc.A12/11325/2002 dated 09.12.2003, quash the same as invalid, illegal, unsustainable and violative of the Constitution of India and further direct the 2nd and 3rd respondents to refund the excess amount of Rs.50,439,00 paid by the petitioner for the assessment year 1996-97 (CST) under the Tamilnadu Sales Tax (Settlement of Disputes) Act, 2002 as per the Judgment of the Special Tribunal rendered in O.P.No.994 & 1039 of 2002 dated 30.04.2003 which declares that Sub-Section 4 of Section 6 violates of Article 14 of the Constitution of India.

For Petitioner : Mr.P.Radhakrishnan

For Respondents: Mrs.Dhanamadri,
Government Advocate

O R D E R

When the petitioner had sought for refund of excess amount paid under the Samadhan Scheme before the Tamil Nadu Special Tribunal, the same came to be allowed. Subsequently, the petitioner herein had claimed certain amounts over and above the amounts specified in the Settlement Certificate dated 31.03.2003, which came to be rejected by the impugned order dated 09.12.2003.

2. It is not in dispute that the amount covered under the Settlement Certificate dated 31.03.2003, has been refunded to the petitioner herein. The present claim is for an amount exceeding the amount determined by the Tribunal. The second respondent herein had rejected such a claim on the ground that, under Section 6(4) of the Tamil Nadu Sales Tax (Settlement of Disputes) Act, 2002, the petitioner is not entitled for excess amount over and above the amount specified in the Settlement Certificate. It was also found therein that the case referred to by the petitioner in the case of Nagalakshmi & Co., will not be applicable to the petitioner herein.

3. A Division Bench of this Court in a decision reported in 2018 (13) VST 256 (Mad) in the case of State of Tamilnadu and others vs Nagalakshmi and Company, had held that the alternate method of resolution of dispute under the 2002 Act was optional and also restricted the application of the Act only in respect of the assessees, whose appeals were pending before the Statutory Authorities. It was further held therein that when the dealer had voluntarily and with full knowledge of the features of the method of resolution, opted to be governed by it, the subsequent claim cannot be re-agitated.

4. In the instant case, when the petitioner herein had voluntarily opted for the Samadhan Scheme and had also received the excess refund amount covered under the Settlement Certificate, there is no justification on him to claim an amount, over and above the amount determined under the scheme. Hence, I do not find any infirmity in the order of the second respondent, which is impugned in the present petition.

5. Accordingly, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Secretary to Government,
   The State of Tamil Nadu,
   Fort St.George, Chennai - 9.

2. The Deputy Commissioner (CT),
   Madurai Division, Madurai - 20.

3. The Deputy Commercial Tax Officer,
   Mahal Assessment Circle,
   Madurai - 20.

+1cc to the Special Government Pleader Sr.52982

W.P.No.2899 of 2004

rsk[co]
srg 25/07/2019