THE HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE P. KESHAVA RAO

WRIT PETITION No.5007 OF 2019

Date: 22.03.2019

Between:

M/s. Fortune Biotech Ltd.,
Annam Gardens, Kavadiguda, Secunderabad,
Represented by its Managing Director

… Petitioner

v.

Assistant Commissioner (ST),
Mahankali Street, RPRD (Circle)
Hyderabad and others

... Respondents

For Petitioner : M/s. S. Krishna Murthy

For Respondents : G.P. for Commercial Tax and
Mr. J. Anil Kumar

Gist :

Head Note :

Cases Referred : Nil

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHAVA RAO

WRIT PETITION No.5007 OF 2019

ORDER: ***(Per V. Ramasubramanian, J)***

Challenging a final arrear notice dated 09.03.2019 issued by the Assistant Commissioner (State Tax), the Dealer under the Telangana Value Added Tax Act. 2005 has come up with the above writ petition.

2. Heard Mr. S. Suri Babu, learned counsel for the petitioner and Mr. J. Anil Kumar, learned Special Standing Counsel for the respondents.

3. The petitioner was granted deferment of sales tax for a period of 14 years commencing from 20.08.1997 upto 19.08.2011, by the proceedings dated 15.01.1998. It appears that the petitioner wrote a letter claiming that an amount of Rs.44,16,405/- was lying in excess to his credit, being the excess ITC. Therefore, by their letter dated 16.09.2014, the petitioner claimed adjustment of the said amount towards deferred payment instalment.

4. Thereafter a refund audit was conducted and the excess ITC was quantified at a particular amount for the year 2013-14, by proceedings dated 04.12.2014.

5. The petitioners then started writing letters for payment of the refund amount. Then the proceedings were issued on 30.03.2016 quantifying the amount to be refunded. By this time, the assessment for 2014-15 was taken up and the petitioner was asked to produce the

books of accounts. The petitioner claims to have produced some documents. It is stated by Mr. J. Anil Kumar, learned Special Standing Counsel that the documents produced by the petitioner were not sufficient and therefore, the assessment for 2014-15 is not completed. Since it is not completed, the system generated arrear notice has been served on the petitioner.

6. It is clear from the rival contentions that while the entitlement for refund has been quantified at a particular amount in 2016, the liability for the assessment year 2014-15 has not been quantified. Unless this is quantified, the amount payable may not be due. Therefore, it is better that the assessment is completed.

7. Hence, the writ petition is disposed of directing the petitioner to produce the documents that the department has listed out in their letter dated 23.10.2018. Upon the petitioner producing those documents, and any other document called upon, the assessment shall be completed. Thereafter, the question of refund of payment should be taken up. In the light of this order, the impugned arrear notice is set aside.

8. The miscellaneous petitions, if any, pending shall stand closed. No order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

March 22, 2019

KTL