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

WRIT PETITION No.37932 of 2018

ORDER: (Per Hon'ble Sri Justice V. Ramasubramanian)

Aggrieved by the rejection of a claim for refund of the excess tax paid under the APGST Act, 1957, the dealer has come up with the above writ petition.

2. Heard Ms. Swetha Giridhar, learned counsel for the petitioner and Mr. T. Vinod Kumar, learned special standing counsel for the respondent.

3. The claim for refund arises out of the contention that the petitioner paid a total amount of Rs.2,56,79,194/-, as against the tax due to the tune of Rs.2,46,09,529/-. The refund claim is to the tune of Rs.10,69,665/-. The claim relates to the assessment year 2004-05. The claim for refund was rejected by the order impugned in the writ petition, on the ground that the revision orders were passed on 16.03.2017 under Rule 50 of the APGST Rules beyond the period of limitation. In other words, the basis for the claim for refund was the revision order dated 16.03.2017. Therefore, it is stated in the impugned order that no claim for refund can be made on the basis of an order passed beyond the period of limitation.

4. But the aforesaid reasoning is wholly untenable. The authority, which passed the order of revision under Rule 50, is also acting in terms of the provisions of the Act. Therefore, another Assistant Commissioner cannot reject the claim for refund on the ground that

what formed the basis for the claim was the act done by another authority without jurisdiction. Therefore, the impugned order is liable to be set aside.

5. Once it is set aside, the matter should go back to the respondent, as the merits of the claim for refund have not been gone into by the competent authority. Therefore, the writ petition is allowed, the impugned order is set aside and the matter remanded back. The petitioner shall produce all necessary documents within two (2) weeks on receipt of copy of this order. Thereupon the respondent, without contesting the validity of the order passed on revision, shall process the refund claim and pass orders on or before 31.02.2019.

Consequently, pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

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V. RAMASUBRAMANIAN, J

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P. KESHAVA RAO, J

January 29, 2019
DSK