BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.2037 of 2011 and
M.P.(MD)No.1 of 2011

M.S.S.Spinners Private Limited,
Rep. By its Managing Director,
S.Ravindran,
Udumalai – Palani Road,
Sukkamanaickanpatty,
Palani Taluk, Dindigul District. ... Petitioner

Vs.

1. The Executive Engineer,
Operations and Maintenance,
Tamil Nadu Electricity Board,
Palani.

2. Accounts Officer/Revenue,
Tamil Nadu Electricity Board,
Dindigul. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records, pertaining to the impugned bill dated 02.02.2011 in bill No.221 for HTSC No.221 by the second respondent and quash the same in so far as it relates to Column No.17 for electricity Tax for Rs.3,24,435.80/-.

For Petitioner : Mr.R.Vijayakumar
For Respondents: Mrs. Parameswari,
for Mr.S.M.S.Johny Basha,
Standing Counsel.

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Standing counsel appearing for the respondents.

2. The question that arises for consideration is whether the second respondent is justified in levying electricity tax on the petitioner to the tune of Rs.3,24,435/-. The impugned order is liable to be quashed because it has not been preceded by any notice. That apart even on the substantial grounds, the petitioner is entitled to succeed.

3. The petitioner was given tax holiday in terms of G.O.Ms.No.1084 Public Works(VI) Department dated 30.07.1992. The reason for not giving effect to the same in the case of the petitioner was that it appears to be that the electricity connection stood in the individual name of the Managing Director of the petitioner's company and it was later changed in favour of the petitioner.

4. I am afraid that the approach adopted by the respondents is not correct. As rightly pointed out by the petitioner's counsel, the object of giving tax holiday is to encourage setting up such new industries. Whether the electricity connection is in the name of the Managing Director or in the name of the company is really irrelevant. In any event, the G.O. does not contain any such stipulation. Therefore, the order impugned in this writ petition is liable to be quashed as bad in law as it is not in consonance with the tax holiday declared in favour of the petitioner herein.

5. The order impugned in this writ petition stands quashed. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P & A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pmu

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Executive Engineer,
   Operations and Maintenance,
   Tamil Nadu Electricity Board,
   Palani.

2. Accounts Officer/Revenue,
   Tamil Nadu Electricity Board,
   Dindigul.

+1 CC to M/s.R.VIJAYA KUMAR, Advocate (SR-1279[F] dated 20/01/2021)

W.P.(MD)No.2037 of 2011

19.01.2021

TP(CO)
NR (08/02/2021) 3P : 4C