BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 01.03.2021
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.12129 of 2017

M/s.TVS Srichakra Limited,
Rep. by its Managing Director,
Shobana Ramachandran,
TVS Building, 7-B, West Veli Street,
Madurai - 625 001. ... Petitioner

Vs.

The Secretary,
Department of Science and Industrial Research,
Ministry of Science & Technology,
Technology Bhavan, New Mehrauli Road,
New Delhi - 110 016. ... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to consider the application dated 24.09.2014 and to renew the letter of approval under Section 35(2AB) of the Income Tax Act for the period from 01.04.2010 to 31.03.2014.

For Petitioner : Mr.S.P.Maharajan.
For Respondent : Mr.S.Srimathy, Standing counsel.

O R D E R

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

2. The petitioner is engaged in manufacturing a range of tyres. The petitioner is also spending substantial sums towards research and development.

3. The petitioner is entitled to deduct the same. However, the petitioner will have to be certified by the respondent to enable them to claim such deduction for Income Tax Act purposes. The petitioner was granted such certificates for the years 2008 to 2010 and again from 2014 to 2017. But during the intervening years, namely, 01.04.2010 to 31.03.2014 on account of some delay in submitting application, the petitioner was not issued with the certificates. Hence, this writ petition has been filed for calling upon the respondent to consider and pass orders on the petitioner's application for recognition of in-house R&D units.

4. The learned counsel appearing for the petitioner draws my attention to Section 35(2AB) of the Income Tax Act.

5. When the petitioner has given the petition mentioned application, the respondent ought to have given a disposal to the same. It appears that the respondent has taken a view that since they do not have power to condone the delay, they cannot give a disposal.

6. I am of the view that such a technical approach need not be adopted. The issue afterall concerns research and development. The petitioner was granted recognition of their in-house R&D units for the period prior to petition mentioned years and also subsequent years. Only for the intervening years, namely, 01.04.2010 to 31.03.2014, the petitioner is not having requisite certification. Therefore, the respondent is directed to consider the petition mentioned application on merits. In other words, the respondent will not non-suit the petitioner or return the application on the ground of delay. An order on merits will be passed within a period of twelve weeks from the date of receipt of a copy of this order.

7. This writ petition stands disposed of, on these terms. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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:

The Secretary,
Department of Science and Industrial Research,
Ministry of Science & Technology,
Technology Bhavan, New Mehrauli Road,
New Delhi - 110 016.

+1 CC to M/s.S.SRIMATHY, Advocate (SR-8249[F] dated 02/03/2021)

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