IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2023

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.15268 of 2020
and
WMP.No.19096 of 2020

M/s.Kamakshi Chemicals Pvt. Ltd.,
Rep. by its Manager,
57/3/D, Nainikattalai Road,
Polagam Village, T.R.Pattinam,
Karaikkal -609 606. ... Petitioner

Vs.

1.The Commercial Tax Officer,
The Commercial Tax Office,
Karaikal,
Karaikal District.

2.The State Tax Officer,
Nagapattinam Assessment Circle,
Nagapattinam.

3.M/s.Gail India Ltd,
Rep. by its Deputy General Manager F & A,
164, Kamarajar Salai,
A.H.M. Complex,

Karaikal - 600 602. ...Respondents
(R3 deleted vide order dated 28.10.2020 made in WP.15268 of 2020 by this Court)
(R3 restored to the array of parties vide order dated 15.03.2023 made in WP.15268 of 2020 by this Court)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Mandamus, directing the first respondent to permit the petitioner company to file the revised monthly return in form I and to raise 'C' Forms online for the corresponding period pertaining to petitioner company (TIN No.34750005919, CST No.34750005919 dated 20.03.2002), by considering the representation of the petitioner company dated 18.09.2020, to the first respondent, within a time frame as may be fixed by this Court.

For Petitioner : Mr.Swarnavel

For Respondents : Dr.B.Ramasamy (for R1 and R2)
Additional Government Pleader

Mr.Joseph Prabakar (for R3)

O R D E R

The petitioner claims to be engaged in the manufacturer of Sodium Silicate Glass and purchases Natural Gas from R3/Gail India Limited. It seeks a mandamus directing the first respondent to permit it to file the revised monthly returns under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') and connected Rules in Form 1 and thereafter raise a request for 'C' Forms online for the period 2014-15.

2.The petitioner has also made a representation along similar lines to the first respondent which is pending. Gail was collecting tax at the rate of 2% Central Sales Tax (CST) on production of 'C' Form and at the rate of 5%, without 'C' Form. The petitioner, in the absence of turnover during the relevant period had filed a nil return.

3.While this is so, the assessment of Gail for the period 2014-15 came to be concluded on 01.09.2020, wherein Gail has been assessed at the rate of 14.5% as its turnover. Gail has made good the demand accepting the assessment and has also collected the difference from the petitioner pending writ petition.

4.Though Gail was initially removed from the array of parties, it was later felt that it would be appropriate that Gail also remain on board and hence R3 was reinstated in the array of parties. Upon a consideration of the prayer, I am of the view that mandamus cannot be issued to R1 as sought for, enabling the petitioner to file revised returns, as there is no statutory sanction for the same.

5.Learned counsel for the petitioner points out that the necessity for this writ petition arose only pursuant to proceedings of R2 dated 01.09.2020. However, the fact remains that Gail has accepted the order of assessment dated 01.09.2020 and in the absence of any challenge to the same, mandamus as sought for cannot be considered.

6.While learned counsel for Gail would accede to the position that there is a patent error in adoption of rate of tax in its assessment. Gail is unwilling to step up and challenge proceedings dated 01.09.2020 which is the only method by which this conundrum may be resolved.

7.The prayer of the petitioner is rejected and this writ petition dismissed. No costs. Connected miscellaneous petition is closed.

30.03.2023

vs
Index: Yes/No
Speaking order
Neutral citation:Yes

To

1.The Commercial Tax Officer,
The Commercial Tax Office,
Karaikal, Karaikal District.

2.The State Tax Officer,
Nagapattinam Assessment Circle,
Nagapattinam.

Dr.ANITA SUMANTH, J.

vs

W.P. No.15268 of 2020 and
WMP.No.19096 of 2020

30.03.2023