(2011) 08 SHI CK 0193

In the High Court Of Himachal Pradesh

Case No : CWP No. 1610 of 2010

Acer India (P) Limited APPELLANT

Vs

State of Himachal Pradesh and Another RESPONDENT

Date of Decision : 01-08-2011

Acts Referred:
Central Sales Tax Act, 1956 — Section 8

Citation : (2011) 08 SHI CK 0193

Hon'ble Judges : Kurian Joseph, C.J;Sanjay Karol, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The writ petition is filed challenging Annexure P-4, notification issued by the Government of Himachal Pradesh, Excise and Taxation Department, dated 30.6.2005 prescribing Form ''CC'' and prescribing a lower rate of 1% Central Sales Tax in the course of inter-state trade or commerce by industrial units manufacturing information technology and bio-technology goods.

2. In the reply filed by the Excise and Taxation Commissioner, Himachal Pradesh in the preliminary submissions at Para 4 it is stated as follows:

4. Under the provisions prevalent prior to 1-4-2007, the Parliament had delegated requisite powers to reduce the rate of tax u/s 8 of the said Central Act subject to such conditions as may be specified in the notification. Consequently, while issuing the notification dated 30th June, 2005 (Annexure P-4) the State Government exercised the delegated powers u/s 8 of the Act, as it existed prior to 1-4-2007. However, w.e.f. 1-4-2007 the provisions of Sub-sections (1), (2), (4) and (5) of Section 8 have been purposely amended by the Parliament so as to completely repeal the applicability of the lower CST rates in the case of Inter-State sales and to levy the rates of tax applicable on the relevant goods within the State. The net consequence of the amendment is that it has rendered the notification dated 30.6.2005 (Annexure P-4) issued by the State u/s 8(5)(b) obsolete and devoid of any legal force, being contrary to the amended provisions.

3. In view of the stand taken by the State of H.P. in the reply, as extracted above, it is submitted that No. further relief is claimed in the writ petition. It is hence disposed of in terms of the reply as extracted above.

4. Petition stands disposed of so also the pending applications, if any.

