(2014) 02 AP CK 0172

In the Andhra Pradesh High Court

Case No : Writ Petition No. 3989 of 2004

Deccan Cements Limited APPELLANT

Vs

Assistant Commissioner (CT) (LTU) RESPONDENT

Date of Decision : 12-02-2014

Acts Referred:

Citation : (2014) 58 APSTJ 52

Hon'ble Judges : M. Satyanarayana Murthy, J;Ashutosh Mohunta, J

Bench : Division Bench

Advocate : S. Dwarakanath, Advocate for the Appellant; P. Balaji Varma, Special Standing Counsel, Advocate for the Respondent

Judgement

Ashutosh Mohunta, J.—The petitioner is aggrieved by the order dated 05-12-2003 passed by the Assistant Commissioner (CT), LTU, Nalgonda, the 1st respondent herein and confirmed by the Appellate Deputy Commissioner (CT), the 2nd respondent herein vide order dated 04-02-2004 with regard to the assessment year 2001-02. The petitioner is a cement plant at Bhavanipuram manufacturing clinker and cement and, in another division, it manufactures slag cement. The petitioner claimed deferment of sales tax on sulphate resistant cement and Portland pozzolona cement from the date of commencement of commercial production i.e., 23-02-2000 and 04-01-2002 respectively for a period of 14 years. The respondents denied deferment of sales tax to the petitioner on the ground that the varieties of cement being manufactured by it are not specifically found in the eligibility certificate.

2. Sri S. Dwarakanath, learned counsel for the petitioner has placed reliance on communication dated 09-09-2(sic) from the Commissioner of Industries addressed to the Commissioner of Commercial Taxes, Government of Andhra Pradesh, vide which the Commissioner of Commercial Taxes has been requested to allow sales tax deferment to the unit on the additional lines (1) Sulphate Resistant Cement (23-03-2000) (2) Pozzolana Cement (04-01-2002) from the date of their commencement of commercial production within the over-all ceiling

limit of Rs. 16,31,53,570/- and submitted that the petitioner ought to have been given deferment for the sulphate resistant cement and pozzolana cement being manufactured by it.

3. Learned Special Standing Counsel for Commercial Taxes however submits that the aforementioned varieties of cement were not mentioned in the eligibility certificate. Hence, no deferment was granted to the petitioner.

4. After hearing the learned counsel for the parties and on a perusal of communication dated 09-09-2004, it is clear that there can be no distinction between different varieties of cement including sulphate resistant cement and pozzolana cement. In fact, the State Level Committee has included the aforementioned varieties of cement in the eligibility list.

5. In view of the above, it is held that the petitioner is entitled to deferment of sales tax from the date of commencement of commercial production. Consequently, the impugned orders dated 05-12-2003 and 04-02-2004 passed by respondent Nos. 1 and 2 respectively are set aside. The writ petition is accordingly allowed. Miscellaneous petitions, if any, pending consideration shall stand closed. No order as to costs.

