(2014) 07 MAD CK 0056

In the Madras High Court

Case No : W.P. (MD) Nos. 16312, 16314 of 2012 and M.P. Nos. 1, 1 and 1 of 2012

Ghcl Limited APPELLANT

Vs

The Joint Commissioner RESPONDENT

Date of Decision : 01-07-2014

Acts Referred:

Citation : (2014) 07 MAD CK 0056

Hon'ble Judges : R. Mahadevan, J

Bench : Single Bench

Judgement

R. Mahadevan, J.—As the issues involved in all the Writ Petitions are common with a challenge to the very same Government Order, they have been taken up together and dealt with by a Common Order.

2. The case of the petitioner is that the petitioner is a manufacturer of cotton and blended yarn and an assessee on the file of the second respondent herein. In respect of the assessment years, 2003 '' 2004, 2004 '' 2005 and 2005 '' 2006, the petitioner filed applications under Section 5 of the Tamil Nadu Sales Tax [Settlement of Arrears] Act, 2011, [for brevity, "the Act"], before the first respondent, after fulfilling the statutory requirements. The first respondent issued notices, on 06.08.2012, in which it has been stated that on verification of the records, it was found that the petitioner paid the lesser interest amount, than the amount originally payable, and proposed to reject the applications in accordance with Section 6(3) of the Act. The petitioner submitted written objections, on 10.09.2012. In spite of submission of written objections, the first respondent confirmed the proposal, by proceedings, dated 26.10.2012, which is under challenge in these Writ Petitions.

3. The learned counsel appearing for the petitioner submits that for the assessment years 2003 '' 2004, 2004 '' 2005 and 2005 '' 2006, the second respondent had assessed the petitioner, by assessment orders, dated 31.03.2008 and 27.06.2008, which were challenged by the petitioner by filing W.P.

[MD].Nos.4762, 4763 and 9408 of 2008. Initially, this Court granted interim stay of the above said assessment orders, and thereafter, the said interim stay was made absolute. Subsequently, the above said Writ Petitions came to be disposed of by this Court, vide orders, dated 03.11.2008 and 04.11.2008, giving direction to the second respondent to pass fresh assessment orders, by considering the exemption claimed by the petitioner. The learned counsel further submits that even though this Court passed orders, on 03.11.2008 and 04.11.2008, the second respondent passed the revised assessment orders, for the assessment years 2003 '' 2004, 2004 '' 2005 and 2005 '' 2006, only on 24.05.2011. Thus, the delay of 30 months in passing the revised assessment orders is only on the part of the second respondent and the petitioner cannot be blamed.

4. The learned counsel further submits that as per Section 3(5) of the Act, if the designated authority finds any defect or omission in the applications, he shall return such applications for rectification of the defects within ten days from the date of receipt of the said application. Even though the authority had failed to do so, the petitioner, after receipt of the revised assessment orders, filed applications, on 30.01.2012 and paid the interest, calculated from 24.05.2011. However, the first respondent rejected the applications submitted by the petitioner, dated 30.01.2012 in respect of the assessment years, 2003 '' 2004, 2004 '' 2005 and 2005 '' 2006.

5. Heard the learned Additional Government Pleader appearing for the respondents and perused the records carefully.

6. During the course of the arguments, the learned counsel appearing for the petitioner produced a detailed working sheet, in respect of the assessment years 2003 '' 2004, 2004 '' 2005 and 2005 '' 2006, wherein the actual amount to be paid for considering the applications under Samadhan Scheme has been given.

7. As rightly contended by the learned counsel appearing for the petitioner, if the first respondent had any grievance over the payment of interest on the part of the petitioner, he would have intimated the same to the petitioner within ten days from the date of receipt of such application and if the defects could have been pointed out by the first respondent in time, the petitioner can have a chance to rectify the same. However, the first respondent had failed to do so. Hence, this Court is of the view that the impugned orders cannot be sustained in the eye of law.

8. In such view of the matter, the impugned orders are set aside and the petitioner is directed to produce the working sheet before the first respondent, along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the first respondent is directed to consider the same and pass appropriate orders, within a period of six weeks thereafter.

9. The Writ Petitions are allowed, as indicated above. No costs. Consequently, connected Miscellaneous Petitions are closed.

