(2014) 07 KAR CK 0057

In the Karnataka High Court

Case No : Writ Petition Nos. 33281 to 33283 of 2014 (T-RES)

Gramox Paper and Boards Limited APPELLANT

Vs

The Local Vat Officer-200 RESPONDENT

Date of Decision : 15-07-2014

Acts Referred:

Citation : (2014) 80 KarLJ 62

Hon'ble Judges : B.V. Nagarathna, J

Bench : Single Bench

Advocate : T.N. Keshava Murthy, Advocate for the Appellant; S.V. Girikumar, Additional Government Advocate, Advocate for the Respondent

Judgement

B.V. Nagarathna, J.—Petitioner has sought a direction to the respondents to refund to it a sum of Rs. 18,85,509/- being the excess of input tax over output tax liability for the period March 2012; Rs. 34,74,571/- in respect of tax period March 2013 and Rs. 57,94,229/- being the excess input tax over output tax for the period March 2014, totaling to Rs. 1,11,54,309/- together with statutory interest at the rate of 6% as provided under sub-rule (5) of Rule 128 of the Karnataka Value Added Tax Rules, 2005. Briefly stated the facts are, that the petitioner is a limited company and a registered dealer under the provisions of the Karnataka Value Added Tax Act, 2003 as well as the Central Sales Tax Act, 1956. It is stated to be engaged in the manufacture of sale of paper board by using waste paper purchased from registered dealers on payment of Value Added Tax (VAT) as raw material/input at its manufacturing unit at Nanjangud; that for the assessment years 2011-2012, 2012-2013 and 2013-2014, the petitioner filed its returns on its sales turnover. After the said returns was scrutinized by the Department, the respondents found that the petitioner was entitled to refund of Rs. 18,85,509/- being the excess of input tax over output tax liability for the period upto March 2012. Similarly for the tax period upto March 2013 refund of Rs. 34,74,571/- was to be made to the petitioner as also for the period upto March 2014 refund of Rs. 57,94,229/- being the excess of input tax over output tax was to be made to the petitioner. The petitioner thereafter sought for the aforesaid refund. The grievance of the petitioner is that till date the aforesaid amounts have not been refunded. Being aggrieved by the inaction on the part of the respondents, a direction has been sought against the respondents.

2. I have heard the learned Counsel for the petitioner and learned AGA for the respondents and perused the material on record.

3. During the course of submission, it was pointed out by the learned AGA that perhaps the petitioner has not complied with the mandatory requirements in order to seek the refund of the aforesaid amounts and that may be a reason as to why the amounts have not been refunded to the petitioner. In this regard a copy of the endorsement dated 11-7-2014 has also been submitted by him.

4. This submission was objected to by the learned Counsel for the petitioner, who stated that all mandatory requirements for seeking the refund has been complied with by the petitioner. All the requisite documents have been uploaded and for over two years there has been no action taken on the petitioner''s request for refund of the aforesaid amounts. He also pointed out that the endorsement now issued by the respondents is on the date the writ petition has been filed i.e., on 11-7-2014 and it was served on the petitioner on the following day.

5. Learned Counsel for the petitioner relied upon the order passed by this Court in the case of Primacy Industries Limited Vs. Assistant Commissioner of Commercial Taxes LVO 280, , wherein this Court has ordered for refund of the excess input tax within a period of three weeks from the date of receipt of certified copy of that order. He therefore submitted that a similar order may be passed in this case also.

6. In the instant case, it is noted that the aforesaid amounts are due since March 2012. The petitioner has uploaded the requisite documents and complied with all other mandatory requirements for seeking refund of the aforesaid amounts. There is no reason as to why the aforesaid amounts have been withheld by the Department from the petitioner. In fact in Sriram Transport Finance Company Ltd. Vs. Commercial Tax Officer and Another, , a Division Bench of the Andhra Pradesh High Court has held that the refund to an assessee can be withheld only when any other proceeding under the Act is pending or where the Assessing Authority is of the opinion that the grant of refund is likely to adversely affect the Revenue. No such circumstance has been made out by the respondents in the instant case. There is no revisional proceeding pending in respect of the refund orders. In that view of the matter, the petitioner is entitled to the refund of the aforesaid amount with interest at 6% p.a. as stated in sub-rule (5) of Rule 128 of the Rules. The said refund shall be made within a period of two weeks from the date of receipt of certified copy of this order.

The writ petitions stand disposed of with the aforesaid observations and directions.