(2014) 02 MP CK 0036

In the Madhya Pradesh High Court

Case No : Writ Petition No''s. 20941, 21042 of 2012 and 12020, 9709 of 2013

M/s. Premier Industries APPELLANT

Vs

State of M.P. and Others RESPONDENT

Date of Decision : 06-02-2014

Acts Referred:
Central Sales Tax Act, 1956 — Section 8(5)

Citation : (2014) 02 MP CK 0036

Hon'ble Judges : Rajendra Menon, J;Anil Sharma, J

Bench : Division Bench

Advocate : H.S. Shrivastava, Mr. Abhijeet Shrivastava and Mr. Mukesh Agrawal, for the Appellant; Rahul Jain, Learned Dy. Advocate General for Respondents/ State, for the Respondent

Judgement

1. As common question of law is involved in all these petitions, they are being disposed of by a common order and for the sake of convenience, the documents and pleadings filed in W.P. No. 12020/2013 is being referred to in this order. Petitioners in all these cases are registered dealers and are carrying out various activities as are indicated. Each of the petitioners'' Industry has been granted exemption under Notification No. A-3-24-94-ST-V (108) dated 6th of October, 1994 under the State Act and as well as Central Sales Tax. The exemption granted to the petitioners in each of the cases is indicated in the petition and the same is not in dispute.

2. Originally taking note of the exemption granted, the assessment orders were passed but subsequently in each of the cases, matter was taken up in suo-moto revision and reassessment was ordered and on the ground that certain sales have not been covered under Form-C declaration, it was held that they are liable to pay tax in view of the amendment in Section 8(5) of the Central Sales Tax Act W.P. No. 20941/2012 vide Amendment Act, 2002. Challenging the reassessment ordered and the tax imposed on account of transaction as covered by Form-C, all these petitions are filed.

3. The question with regard to reopening of assessment and imposition of tax without granting to the assessee set off on the Tax against cumulative quantity in accordance with the exemption granted has been considered by a Division Bench of this Court at Gwalior in the case of Marvel Vinyls Ltd. Vs. State of M.P. and Others, and after taking note of the provisions of Section 8(5) of the Central Sales Tax Act and the import of the exemption granted, matter has been remanded back to the revisional authority to reconsider the question with regard to right of the assessee to seek set off against tax liability in view of the exemption granted.

4. Keeping in view the aforesaid judgment of the Division Bench and taking note of the fact that the question of set off against the liability of tax due and the benefit of exemption granted has not been considered by the revisional authority, we see no reason to take a different view from the one taken in the case of Marvel Vinyls Ltd. (Supra) by a coordinate bench of this Court.

5. Accordingly, petitions are allowed. Orders impugned are quashed and the matter is remanded back to the revisional authority to consider the eligibility of the petitioners for set off in accordance with the exemption granted and decide the matter afresh.

6. With the aforesaid, petitions stand allowed and disposed of. Certified Copy as per rules.