(2011) 12 AHC CK 0307

In the Allahabad High Court

Case No : Writ Tax No. 1678 of 2011

M/s Super Plastronics Pvt. Ltd. APPELLANT

Vs

State of U.P. and Others RESPONDENT

Date of Decision : 09-12-2011

Acts Referred:

Citation : (2011) 12 AHC CK 0307

Hon'ble Judges : Sunil Ambwani, J;Manoj Misra, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. We have heard Shri N.C. Gupta, learned counsel appearing for the petitioner. Shri S.P. Kesarwani, Additional Chief Standing Counsel appears for the respondents.

2. The petitioner is challenging the assessment order dated 17.3.2011 for the assessment year 2007-08 to the extent that the Deputy Commissioner, Commercial Tax, Sector-14, Noida has assessed the petitioner and has levied the commercial tax on job work done by the petitioner in absence of Form-F of the Central Sales Tax.

3. The petitioner has relied upon a judgment of this Court in M/s A.C.P.L. Jewels Private Ltd vs. Union of India and Others 2009 NTN (41) 271 in which the Court held as follows:-

We have taken into account the submissions, the judgment of the Supreme Court dated 31.3.2009, arising out of the judgment of the Division Bench of this Court in Ambica Steels (supra), as well as the Circular Letter issued by the Commissioner, Trade Tax Department dated 26.6.2009, and consequently without going into the merits of the challenge to the vires of Section 6-A of the Act or other submissions, we dispose of all the writ petitions with the following directions:-

(1) In all the cases, in which transactions of job-work and goods-returned are involved, the assessment orders only to the extent that the tax was imposed on such transactions for want of Form F of the Central Sales Tax are set aside. The petitioners will appear and submit before the assessing authority a certified copy of this judgment in six weeks to complete the assessment proceedings with regard to such transactions only, on its own merits, after examining the transactions between the parties, and keeping in mind that the assessee is not in a position to obtain Form F for no fault of his; and

(2) In the cases where the assessee has been subjected to reassessment proceedings in which the transactions of job-work and goods-returned are involved, the reassessment orders only to the extent that the tax was imposed on such transaction/s for want of Form F of the Central Sales Tax are set aside. The assessee will appear before the Reassessing Authority and submit a certified copy of this judgment in six weeks, to complete the reassessment proceedings in respect of such transactions only, on its own merits after examining the transactions between the parties, keeping in mind the findings recorded earlier on such transactions, and also that the assessee is not in a position to obtain Form F, for no fault of his.

There will be no order as to costs.

4. The petitioner has not explained the nature of transaction, and the reason, as to why he could not produce the Form-F.

5. Be that as it may, the petitioner has a right to appeal and cite the law laid down by the Supreme Court in Ambica Steels Limited vs. State of U.P. and Others 2007 (35) NTC 1 and the judgment of this Court in M/s A.C.P.L. Jewels Private Limited in support of the grounds to be taken in appeal.

6. The writ petition is accordingly dismissed.

