(2013) 04 MP CK 0069

In the Madhya Pradesh High Court

Case No : Writ Petition No. 340 of 2012

M/s. Vikram Dollers APPELLANT

Vs

State of M.P. and Others RESPONDENT

Date of Decision : 03-04-2013

Acts Referred:

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

Citation : (2013) 04 MP CK 0069

Hon'ble Judges : S.K. Gangele, J;D.K. Paliwal, J

Bench : Division Bench

Advocate : Ankur Mody, for the Appellant; Vivek Khedkar, D.A.G. for the State, for the Respondent

Judgement

1. Heard. Petitioner has filed this petition assailing the order dated 21st December, 2010 passed by the revisional authority.

2. Petitioner is a public limited company incorporated under the Companies Act. It was granted exemption in accordance with the tax exemption policy of the Government dated 06th October, 1994 in regard to payment of tax under MP GST Act, 1958 and CST Act, 1956. Relevant clause of the exemption granted to the petitioner is as under:

The dealer has commenced commercial production on 8/11/1995. He is, therefore, eligible to avail of the aforesaid facility from the date of commencement of commercial production to the extent of the cumulative quantum of tax payable by him under the Madhya Pradesh General Sales Tax Act, 1958 and the Central Sales Tax Act, 1956 which is 250% of the capital investment in fixed assets Rs. 3325.00 lakhs (Rupees Thirty three crores twenty-five lakhs only) for a period of nine 9 (Nine) years or for the period upto the date earlier to the expiry of the said period of 8/11/1995 (Eighth November Nineteen hundred ninety give) to 7/11/2004 (Seventh November Two thousand four) on which he achieves the said cumulative quantum.

3. Earlier the petitioner had been assessed and he was given benefit in regard to payment of CST on certain inter State transactions, but subsequently, it was found that the petitioner made the aforesaid inter-State transactions without submitting "C" Form hence, he was not entitled to the benefit in accordance with the amendment dated 13/5/2002 made in section 8(5) of Central Sales Tax Act. A circular was also issued on 10/6/2008 in this regard. Hence, the case of the petitioner was reopened, notice was issued and tax to the tune of Rs. 39,17,150/- has been imposed upon him vide impugned order Annexure P/1.

4. Learned counsel for the petitioner admitted the fact that the validity of the amendment in section 8(5) of the Central Sales Tax has been upheld hence, the petitioner is liable to pay the tax, but the aforesaid tax has to be set off against the liability of the petitioner in view of the exemption granted to him. This question has not been considered by the Revisional Authority in the impugned order Annexure P/1.

5. Hence, the petition is disposed of with the following direction:

The impugned order dated 21st December, 2010 is hereby quashed. The Revisional Authority is directed to consider the eligibility of the petitioner for set off in accordance with the exemption granted to the petitioner vide Annexure P/3.

The petition is disposed of with the aforesaid.