(2013) 08 KL CK 0026

In the High Court Of Kerala

Case No : W.P. (C) No. 5 of 2012 (A)

Prima Beverages (P) Limited APPELLANT

Vs

Assistant Commissioner (Assmt.) RESPONDENT

Date of Decision : 23-08-2013

Acts Referred:

Citation : (2014) 71 VST 421

Hon'ble Judges : V. Chitambaresh, J

Bench : Single Bench

Judgement

V. Chitambaresh, J.—The petitioner was granted exemption from payment of tax under the Kerala General Sales Tax Act for the period from February 20, 1997 to February 20, 2004. This court however held that no exemption could be granted for units engaged in packaged drinking water since no manufacturing process was involved. The Government therefore issued S.R.O. No. 731/2004 dated July 17, 2004 granting exemption from payment of tax for the period from January 1, 1994 till April 9, 2002. S.R.O. No. 731/2004 was later withdrawn by the Government by S.R.O. No. 377/2005 dated April 19, 2005 thus denying exemption earlier granted. S.R.O. No. 377/2005 was impugned in a bunch of writ petitions including the petitioner which resulted in exhibit P6 judgment. This court quashed S.R.O. No. 377/2005 which has the effect of resurrecting S.R.O. No. 731/2004 which granted exemption.

2. The petitioner being a packaged drinking water unit is thus undoubtedly entitled to the exemption granted under S.R.O. No. 731/2004. This is the purport and import of exhibit P6 judgment annulling S.R.O. No. 377/2005 which has to be given full effect in letter and spirit. It is reported that exhibit P1 order of assessment for the year 2000-01 stands remitted to the first respondent under exhibit P5 appellate order. Nothing prohibits the first respondent from taking into consideration the effect of SRO No. 731/2004 by virtue of exhibit P6 judgment.

3. I direct the first respondent to give effect to exhibit P6 judgment in relation to the assessment years 2000-01 and 2001-02 also. I quash exhibit P2 order of

assessment for the year 2001-02 for this limited purpose in order to quantify the liability in view of the exemption. The petitioner had submitted series of representations right from the year 2007 (see exhibits P7 to P10) immediately after exhibit P6 judgment. The petitioner cannot be said to be guilty of any latches in view of the repeated representations and exhibit P6 binding judgment.

4. Necessary orders shall be passed by the first respondent with notice to the petitioner within a period of two months from the date of receipt of a copy of this judgment. The writ petition is disposed of.

