2026:KER:62870
CNR : KLHC010915982022

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

FRIDAY, THE 14TH DAY OF AUGUST 2026 / 23RD SRAVANA, 1948

WP(C) NO. 42200 OF 2022

PETITIONER:

M/S. MRF LIMITED
P.B NO. 2, VADAVATHOOR P.O, KOTTAYAM-686 010;
REPRESENTED BY ITS CHIEF ACCOUNTS MANAGER MR. MUKUL CHANDRA GOLE.

BY ADVS.
SRI.KURYAN THOMAS
SRI.M.GOPIKRISHNAN NAMBIAR
SHRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SHRI.PAULOSE C. ABRAHAM
SHRI.RAJA KANNAN

RESPONDENTS:

1. **STATE OF KERALA**
   REPRESENTED BY ITS SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, SECRETARIAT,
   THIRUVANANTHAPURAM - 695 001

2. **THE STATE LEVEL COMMITTEE ON SALES TAX EXEMPTION (LARGE & MEDIUM INDUSTRIES)**
   REPRESENTED BY ITS MEMBER SECRETARY, VIKAS BHAVAN,
   THIRUVANANTHAPURAM-695 033

3 THE DIRECTOR
DIRECTORATE OF INDUSTRIES & COMMERCE, 3RD FLOOR,
VIKAS BHAVAN,
THIRUVANANTHAPURAM-695 033.

4 ADDITIONAL COMMISSIONER (GENERAL)
STATE GOODS & SERVICES TAX DEPARTMENT, 8TH FLOOR,
TAX TOWER, KILLIPPALAM, KARAMANA P.O,
THIRUVANANTHAPURAM-695 002

BY ADV. SMT. HARIMA HARIHARAN, GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14.08.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner is a company engaged in running a Medium-Scale Industrial Unit, stated to be engaged in the manufacture and sale of “tyres, tubes, tread rubber”, etc. The petitioner sought for the benefit of exemption from payment of tax as provided under the provisions of S.R.O. No.1729/1993, representing the “additional investments” carried out in its unit, as well as “modernization”. As regards the additional investment carried out in the unit, Ext.P2 is the eligibility certificate issued by the Director of Industries and Commerce (DIC) - 3rd respondent. As regards the modernization carried out, Ext.P5 is the eligibility certificate issued by the DIC. On the basis of Exts.P2 and P5 issued as above, the Deputy Commissioner (General) sought to issue Exts.P3 and P6 orders granting exemption. A reference to Ext.P3 would show that with respect to “compound rubber” manufactured by the petitioner among other items, the benefit of exemption is sought to be restricted upto 14.01.1998, seeking to place reliance on the amendment to S.R.O. No.1729/1993 carried out pursuant to S.R.O. No.38/1998 with effect from 15.01.1998. The orders of the Deputy Commissioner (General) were further challenged by the petitioner before the State Level Committee (SLC). The SLC by the proceedings at Ext.P10 considered the appeal filed also with reference to the judgment of a Division Bench of this Court in ***State of Kerala v. M.R.F Limited., [(2016) 90 VST 304 (Ker)]***, seeking to reject the appeal filed as above. It is in the afore circumstance, the petitioner has filed the captioned writ petition seeking to challenge Ext.P10 order issued by the SLC.

2. Sri. Kuryan Thomas, the learned counsel for the petitioner, sought to rely on the notification issued under S.R.O. No.1729/1993, as well as the negative list introduced pursuant to S.R.O. No.38/1998, and would point out that even with respect to a similar interdiction contained under S.R.O. No.642/1981, as amended by S.R.O. No.1516/1990, a Division Bench of this Court had considered the issue specifically with reference to the product in question and found that “compound rubber”, manufactured by the petitioner, could not be

considered to be a product which is only subjected to a processing activity so as to deny the benefit of exemption. Therefore, according to him, the principles laid down by the Division Bench in ***MRF*** *(supra)* has to apply as regards the claim under S.R.O. No.1729/ 1993 also.

3. *Per contra,* Smt.Harima Hariharan, the learned Government Pleader for the respondents, would point out that the notification considered by the Division Bench in ***MRF*** *(supra)* and the notification on the basis of which exemption is claimed by the petitioner in the case at hand are, different. Hence, the principles laid down would not have any application to the facts of the case at hand, according to her.

4. I have considered the rival contentions, as well as the connected records.

5. It is not in dispute that S.R.O. No.1729/1993, was sought to be amended by S.R.O. No.38/1998, including a negative list with respect to certain processes which shall not be deemed as "manufacture" for the purpose of notification so as to avail the benefit. Clause (h) is added by S.R.O. No.38/1998

and the same reads as under:-

> "(h) conversion of rubber latex into centrifugal latex, raw rubber sheet, ammoniated latex, crepe rubber, crumb rubber, or any other item falling under entry 110 of the First Schedule to the Kerala General Sales Tax Act, 1963 or <u>treating the raw rubber in any form with chemicals to form a compound of rubber by whatever name called.</u>"

6. Straight away, reference may also be made to the provisions of S.R.O. No.1516/1990, which sought to amend S.R.O. No.642/1981 by explaining what is "finished rubber product" in the following lines:-

> "**Explanation** – Finished rubber product for the purpose of the notification shall mean any goods manufactured, utilising rubber in any form coming under entry 161 of the First Schedule to the Act as one of the raw materials and includes tread rubber coming under entry 200 of the First Schedule of the Act, but shall not include any form or rubber taxable at the point of last purchase in the State or which are subjected to processing by mixing with chemicals, gas, fumigation or <u>any other similar process to make any compound of rubber</u>"

It is with reference to these negative clause and the explanation, the question as to whether the product manufactured- compound rubber- is to be extended the benefits of exemption requires to be considered.

7. At the first blush, from a reading of clause (h) introduced by S.R.O. No.38/1998 in S.R.O. No.1729/1993, the contention raised by the revenue appears to be attractive.

8. At the same time, this Court notices that the Division Bench in ***MRF*** *(supra)* had elaborately considered the question as to whether the compound rubber manufactured by the petitioner could be considered to be a "finished product" with specific reference to the exclusion pursuant to the explanation added under S.R.O. No.1516/1990. The Division Bench, considered the certificates issued by various persons in the industry as also the manufacturing process carried out by the petitioner, for the manufacture of "compound rubber" and found as under:-

> "Having regard to the materials produced by both the sides after the order of remand, it cannot but be said that the overwhelming

scientific opinion coming through the experts in the field of rubber and polymer technology is that compound of rubber or rubber compound, which is the product of the assessee's unit in question, is a finished rubber product. It is a product made by bringing together all of the ingredients required to make a component, according to the required properties. The component is essentially a finished rubber product and is not merely one which is a result of mixing with chemicals, gas, fumigation, etc., or any other process similar to mixing with chemicals, gas, fumigation, etc. As would be reflected from the affidavit filed on behalf of the Department after remand and referred to in paragraph No.11 above, what the Department appears to suggest is that whatever comes out of the process in the assessee's unit within the State is only an intermediary product to be ultimately utilised in the manufacturing process of the assessee in its business of production of tyres and tubes, which activity is carried out outside the State. If this suggestion is to be accepted, we have to dispel the credibility and evidentiary value of the view of the experts that the processing of rubber in such manner as is noted in those affidavits is a process of manufacture and such activity need

> not by itself conclude in the production of tyres and tubes. The product that comes out of the process in the assessee's unit in Kerala is itself a rubber product which has to be treated as finished one for the purpose for which it is put to use, including by person who purchase it as such. The evidence by way of affidavits of experts tendered on behalf of the assessee corroborates each other and the evidentiary value of such evidence of experts clearly outweighs the views in annexure A5 certificate. When evidence of experts are tendred and when the expertise of the persons tendering such evidence is also established, such materials can be rebutted only through such contra evidence as could be held to be of more evidentary value on comparison by competitive evaluation by a duly informed adjudicator. See for support, the decision of the honourable Supreme Court of India in *Collector of Central Exercise, Baroda v. Ambalal Sarabhai Enterprise (P.) Ltd.* [1990] 77 STC 190 (SC); [1990] 185 ITR 87 (SC); [1989] 43 ELT 214. There is no rebuttal evidence from the side of the State discharging its burden which it carried following the clear terms of the order of remand made by the apex court."

Thus, it is categorically found by the Division Bench that "compound rubber" is essentially a finished rubber product and is not merely one which is a result of mixing with chemicals, gas, fumigation etc., or any other similar process so as to take it out of the benefit of exemption under S.R.O. No.1516/1990. It is categorically found that compound rubber in itself is a finished product, which can be used by the petitioner herein or similarly placed persons in the manufacture of other products.

9. Thus, with reference to S.R.O. No.1516/1990, this Court categorically found that compound rubber cannot be considered to be covered by the negative clause introduced by S.R.O. No.1516/1990.

10. As already noticed the explanation introduced under S.R.O. No.1516/1990 and the negative list introduced as per clause (h) pursuant to S.R.O. No.38/1998 are more or less worded similarly.

11. When that be so, I am of the opinion that the principles laid down by the Division Bench in ***MRF*** *(supra)* though with reference to S.R.O. No.1516/1990 would have to apply as regards the eligibility of the petitioner for the benefit of

exemption under S.R.O. No.1729/1993 also.

12. Though the State Level Committee had also taken into account the principles laid down by the Division Bench in ***MRF*** *(supra)*, the issue has not been addressed with specific reference to the wordings of these two notifications as noticed above.

13. Therefore, I am of the opinion that that the petitioner is entitled to succeed. Hence, this writ petition would stand ordered as under:-

i. Ext.P10 proceedings of the State Level Committee, to the extent, the benefit of exemption claimed as regards "compound rubber" manufactured by the petitioner is denied, is set aside.

ii. it is held that the petitioner would also be entitled for the benefit of exemption pursuant to S.R.O. No.1729/1993 as regards "compound rubber" and the said claim is not to be curtailed with reference to negative list at clause (h) introduced by S.R.O.

No.38/ 1998.

iii. Consequential orders to be issued by the competent authority on the basis of the afore directions, as expeditiously as possible, at any rate, within a period of two months from today.

Sd/-

HARISANKAR V. MENON
JUDGE

SRJ

APPENDIX OF WP(C) NO. 42200 OF 2022

PETITIONER'S EXHIBITS

Exhibit P1	**TRUE COPY OF THE SRO 1729/93 AS AMENDED.**
Exhibit P2	**A TRUE COPY OF THE ELIGIBILITY CERTIFICATE NO. FC4/19132/01 DATED 04.04.2003 (ALONG WITH ITS TYPED COPY) ISSUED BY THE OFFICE OF THE 3RD RESPONDENT.**
Exhibit P3	**A TRUE COPY OF ORDER NO. C4.2121/01/CT DATED 13.01.2005 (ALONG WITH ITS TYPED COPY) ISSUED BY THE OFFICE OF THE 4TH RESPONDENT.**
Exhibit P4	**A TRUE COPY OF THE APPEAL (WITHOUT ANNEXURES) (ALONG WITH ITS TYPED COPY) DATED 24.02.2005 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**
Exhibit P5	**A TRUE COPY OF ELIGIBILITY CERTIFICATE NO. FC4/19072/01 DATED 19.11.2003 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.**
Exhibit P6	**A TRUE COPY OF ORDER NO. C4.9410/05/CT DATED 27.06.2005.**
Exhibit P7	**A TRUE COPY OF THE APPEAL (WITHOUT ANNEXURES) DATED 01.08.2005 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**
Exhibit P8	**A TRUE COPY OF THE JUDGMENT DATED 23.11.2021 IN W.P.(C). NO. 33079/2019.**

Exhibit P9	**A TRUE COPY OF THE ARGUMENT NOTE (ALONG WITH ANNEXURES) DATED 07.03.2022.**
Exhibit P10	**A TRUE COPY OF THE ORDER/PROCEEDINGS OF THE 2ND RESPONDENT DATED 05.10.2022 ALONG WITH ITS COVERING LETTER DATED 14.10.2022 AND THE MINUTES OF THE MEETING HELD ON 15.09.2022.**
Exhibit P11	**A TRUE COPY OF THE SRO 1728/93, AS AMENDED.**