

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2015

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.Nos.15491 and 15492 of 2015
and M.P.Nos.1 of 2015

M/s.Fine International Petitioner in both the WPs
rep. by its Partner E.Prakash
477/11, Coromandal Leather Backside
Ranipet Walaja Taluk Vellore District
Vs

The Assistant Commissioner (CT)
Ranipet (Sipcot) Circle Ranipet
Vellore District Respondent in both the WPs.

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records of the respondent in his proceedings in TIN 33904362996/2012-13 and 2013-14 respectively dated 30.4.2015 and quash the same as illegal.

For petitioner : Mr.S.Ramanathan
For respondent : Mr.S.Kanmani Annamalai, AGP (T)

COMMON ORDER

Heard the learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes), who takes notice for the respondent.

2. These two writ petitions have been filed challenging the impugned orders of the respondent dated 30.04.2015.

3. The sole ground on which the impugned orders are challenged is that the respondent has failed to apply his mind while passing the impugned orders, more particularly, when the petitioner has filed detailed replies dated 11.11.2014, giving all explanation to the notices dated 15.10.2014, the respondent has wrongly mentioned in the impugned orders that the petitioner has failed to reply to the said notices dated 15.10.2014, that too when the replies have already been acknowledged by them.

4.1 The case of the petitioner is as follows:- The petitioner, being dealers in leathers and exporters, purchases Wet Blue and after tanning, used to convert them into finished leathers and they used

to export the same. Whiles, the respondent issued notices in TIN 33904362996/12-13 and 13-14 respectively dated 15.10.2014 stating that on verification, it was noticed that the interstate sales against Form "C" declarations has been effected by the petitioner during 2012-13 and 2013-14 and ITC of Rs.2% may be adjusted in the monthly returns. The respondent also worked out the purchasers and sales during the year and arrived at the corresponding ITC at 3% as Rs.3,51,395/- and Rs.10,76,545/- respectively. Thereupon, the respondent asked the petitioner to pay the above tax.

4.2. On receipt of the said notices, the petitioner filed a detailed replies dated 11.11.2014, setting out the facts that the statement made by the respondent that ITC of Rs.3,51,395/- and Rs.10,76,545/- respectively has been wrongly given as refund claim in Form "W" and the same was not correct. Adding other reasons, the petitioner has requested the respondent to drop the proposal to reverse ITC of Rs.3,51,395/- and Rs.10,76,545/- respectively relatable to the interstate sales effected with "C" Forms.

4.3 Surprisingly, the respondent has come to the conclusion that though notices dated 15.10.2014 were issued to the petitioner calling for objections, the petitioner has not filed any objection. The stand taken by the respondent clearly shows that he has completely failed to consider the detailed replies dated 11.11.2014 filed by the petitioner, even though they acknowledged the same on 11.11.2014 itself. Therefore, it is crystal clear that the respondent has passed the impugned orders, without application of mind by not considering the replies filed by the petitioner. In view thereof, this Court is of the opinion that the petitioner has suffered wrong orders at the hands of the respondent.

5. Therefore, the impugned orders are set aside and the writ petitions are allowed. The matters are remanded to the respondent for fresh consideration of the case of the petitioner on merits and in accordance with law. It is needless to mention that the respondent shall give personal hearing to the petitioner before passing fresh orders on the basis of the replies filed by the petitioner dated 11.11.2014.

No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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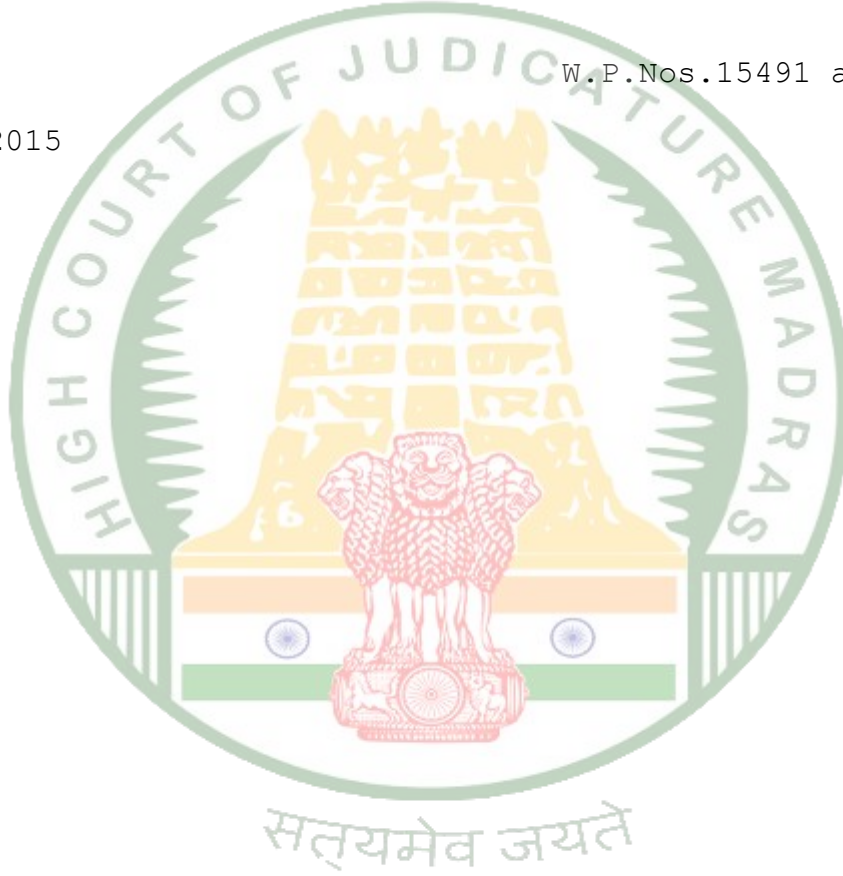
To

The Assistant Commissioner (CT)
Ranipet (Sipcot) Circle Ranipet
Vellore District.

1 cc to Mr. S.Ramanathan, Advocate Sr.No.26356
1 cc to Spl.Government Pleader.Sr.No.26474

kgk(co)
pmk.19.6.2015

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