IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2015

CORAM:

THE HON'BLE MR.JUSTICE T.RAJA

W.P.Nos.20609 and 20610 of 2015
and
M.P.Nos.1 of 2015

W.P.No.20609 of 2015:

M/s.Rajalakshmi Eversilver Mart,
rep.by its Proprietor Mr.S.Anand Babu,
No.68, Kumbakonam Road,
Panruti. ... Petitioner

Vs.

The Commercial Tax Officer (CT),
Panruti (Town) Assessment Circle,
Panruti. ... Respondent

W.P.No.20610 of 2015:

M/s.Sri Rajalakshmi Eversilver Mart,
rep.by its Proprietor Mr.M.Palani Raja,
No.68-A, Kumbakonam Road,
Panruti. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Panruti (Town) Assessment Circle,
Panruti. ... Respondent

Prayer: Writ Petition in W.P.No.20609 of 2015 is filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of Certiorari to call for the records of respondent in TIN.No.33114481528/2012-13, quash the impugned proceedings dated 29.05.2015 as ultra vires of the Section 3(4) of the Tamilnadu Value Added Tax Act, 2006 and being without jurisdiction.

Writ Petition in W.P.No.20610 of 2015 is filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of Certiorari to call for the records of respondent in

TIN.No.33294481526/2012-13, quash the impugned proceedings dated 29.05.2015 as ultra vires of the Section 3(4) of the Tamilnadu Value Added TAx Act, 2006 and being without jurisdiction.

For Petitioner : Mr.V.Sundareswaran
in both W.Ps

For Respondents : Mr.S.Kanmani Annamalai,
in both W.Ps Additional Govt.Pleader (Taxes)

ORDER

The writ petitions in W.P.Nos.20609 and 20610 of 2015 are filed against the orders in TIN.No.33114481528/2012-13 dated 29.05.2015 passed by the Commercial Tax Officer (CT), Panruti (Town) Assessment circle, Panruti and TIN.No.33294481526/2012-13, dated 29.05.2015 passed by the Assistant Commissioner (CT), Panruti (Town) Assessment Circle, Panruti respectively.

2. Learned counsel appearing for the petitioners assailing the impugned orders in both the writ petitions submitted that the respective respondent assessing officers have miserably failed to see that the compounding levy scheme envisages levy of taxes on the sale of taxable goods. Therefore, the assessing officers should have appreciated the law that the compounding levy scheme has contained provision containing restrictions relating to availment of input tax credit by the buyer of the goods from the dealer under the compounding levy scheme. He would further submit that the assessing officers misdirected themselves and clearly fell in error in not appreciating the law that on ''closing stock'', levy of tax is bad and illegal. Yet another assault made by the petitioners is that the assessing officers failed to see that Section 27 can be invoked on the ''turnover escaped assessment to tax'' and not for the levy under the compounded scheme of taxation under Section 3(4) of the Act. Finally, he submitted that the assessing officers cannot unilaterally come to the conclusion that the petitioners have not correctly reported the purchase turnover, by stating in the impugned orders i.e., (i) the petitioner in W.P.No.20609 of 2015 has reported the sales turnover of Rs.44,90,638/-, but reported purchase turnover only at Rs.38,23,891/- to the Income-tax Department and (ii) the petitioner in W.P.No.20610 of 2015 has reported the sales turnover at Rs.44,11,502/- but declared the purchase turnover only at Rs.35,73,804/- to the Income-tax Department, during the year 2012-13, though the petitioner in W.P.No.20609 of 2015 has declared the sales turnover of only Rs.44,90,638/- and the petitioner in W.P.No.20610 of 2015 has declared the sales turnover of only Rs.44,11,502/- and paid tax at 0.5% under Section 3(4) of the TN VAT Act during the year 2012-13.

3. Heard Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent/s.

4. The issues raised by the learned counsel for the petitioners are the mattes to be gone into by the appellate authority. Therefore, this Court, without going into the merits of the matter, dismisses the writ petitions by giving liberty to the practitioners to file appeals against the orders impugned, within a period of two weeks from the date of receipt of copy of this order. Consequently, the connected miscellaneous petitions are also dismissed.

Note to Office:
Registry is directed to return
the original impugned orders
to the learned
counsel for petitioners after obtaining
proper endorsement.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. The Commercial Tax Officer (CT),
Panruti (Town) Assessment Circle,
Panruti.

2. The Assistant Commissioner (CT),
Panruti (Town) Assessment Circle,
Panruti.

+2cc's to Mr.V.Sundareswaran, Advocate, S.R.No.35258
+1cc to the Special Government Pleader(T), S.R.No.35055

W.P.Nos.20609 and 20610 of 2015

BR(CO)
CA(23/07/2015)