IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition Nos.21963 to 21965 of 2015
and
M.P.Nos.1, 1 and 1 of 2015

Tvl.Sahyadri Industries Limited
represented by its authorized signatory
Mr.V.Mahendrakumar Sharma
Chief Finance Officer
SIPCOT Industrial GROWTH Centre
Perundurai, Erode District
Tamil Nadu - 638 052. ...Petitioner in all the W.Ps.

Versus

The Assistant Commissioner (CT)
Perundurai Assessment Circle
Perundurai - 638 052. ...Respondent in all the W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records in respect of the impugned revised assessment orders dated 28.05.2015 in TIN / 33332923199 / 2010-11, TIN / 33332923199 / 2011-12 and TIN/ 33332923199 / 2012-13 of the respondent under Tamil Nadu Value Added Tax Act, 2006 for the year 2010-11, 2011-12 and 2012-13 respectively and quash the same.

For Petitioner in all W.Ps. : Mr.S.Sivakumar

For Respondent in all W.Ps. : Mr.S.Kanmani Annamalai
Additional Govt. Pleader (T)

COMMON ORDER

These Writ Petitions are directed against the impugned order passed by the Assistant Commissioner (CT), Perundurai.

2. The learned counsel appearing for the petitioner submitted that two of the issues, out of the four issues, were decided by the Assessment Officer. Two issues have already been covered by this Court. Firstly, the cancellation of certificate of registration of the selling dealers with retrospective effect has already been covered by this Court in a reported decision in "Jinsasun Distributors ..vs.. Commercial Tax Officer [2013 (59) VST 256 (Mad.)]". The second issue is for the selling dealers who had sold the goods to the petitioner for not filing Form-I returns, whether the respondent can go against the assessee. This issue also has been covered in the decision reported in "Sri Vinayaga Agencies ..vs.. The Assistant Commissioner (CT) [2013 (60) VST 283 (Mad.)]" and "Shanmuga Traders ..vs.. Commercial Tax Officer [W.P.No.18036 of 2015, dated 24.06.2015]". However, the two other issues viz., the issues relating to the capital goods and other goods - input, packing materials, the respondent has not followed the settled law and the interpretation for said goods made by the respondent being totally arbitrary has to be decided by the appellate authority.

3. Heard the learned Additional Government Pleader appearing for the respondent.

4. The respondent having miserably failed to follow the above said two legal positions, had also decided the two other issues with regard to issue relating to capital goods and other goods - input, packing materials. No doubt, the learned counsel appearing for the petitioner was right is saying that the first two issues relating to the cancellation of the registration certificate with retrospective effect, which is covered in a reported decision in ''Jinsasun Distributors ..vs.. Commercial Tax Officer [2013 (59) VST 256 (Mad.)]'' and one another issue relating to selling dealers not filed their manual returns and not paid taxes in their assessment circle and for the fault on the part of the dealers, the petitioner mulcted with tax along with penalty has to be covered in the decision reported in "Sri Vinayaga Agencies ..vs.. The Assistant Commissioner (CT) [2013 (60) VST 283 (Mad.)]" and "Shanmuga Traders ..vs.. Commercial Tax Officer [W.P.No.18036 of 2015, dated 24.06.2015]". But the issue relating to capital goods and other goods - input,

packing materials, have to be gone into by the appellate authority. Therefore, this Court is not inclined to entertain these Writ Petitions.

5. Therefore, without going into the merits of the case, the Writ Petitions are dismissed. However, the petitioner is granted two weeks time for filing the appeals. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

mra

To

The Assistant Commissioner (CT)
Perundurai Assessment Circle
Perundurai - 638 052.

3 CCs to Mr.S.Sivakumar, Advocate SR.No. 37253

1 CC to the Government Pleader, SR.No. 37243

W.P.Nos.21963 to 21965 of 2015
and
M.P.Nos.1, 1 and 1 of 2015

LRS (CO)
PSI (10.08.2015)