In the High Court of Judicature at Madras

Dated :: 04.08.2015

Coram ::

The Hon'ble Mr. Justice R.MAHADEVAN

Writ Petition Nos: 23358 to 23363 of 2015

M/s.S.K.M.Animal Feeds and Foods (India) Ltd.,
rep. by its Managing Director-
Dr. M.Chandrasekar ... Petitioner in all the petitions

Vs

The Assistant Commissioner, (CT)
Erode Rural Assessment Circle,
Erode, Erode District. ... Respondent in all the petition

Prayer in all the petitions:

Writ petitions under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus forbearing the Respondent from in any way levying or demanding purchase tax for the assessment year 2009-2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015 respectively on the purchase of de-oiled cake under section 12(a) of TNVAT Act 2006 which is contrary to the clarification issued by the Authority for Clarification and Advance Ruling as provided under section 48-A of TNVAT Act 2006 in A.C.A.A.R.57/ 2013-14 (Acts Cell-II/ 24169/2013) dated 14.03.2014 as per the reply made by the petitioner dated 30.03.2015.

For petitioner :: Ms.R.Hemalatha

For respondent :: Mr.A.N.R.Jayaprathap, G.A.(T)

O R D E R

Heard Ms.R.Hemalatha, learned counsel for the petitioner and Mr.A.N.R.Jayaprathap, learned Government Advocate (T), who took notice for the respondent and with their consent, the main writ petition is taken up for disposal.

2. These writ petitions have been filed by the petitioner challenging the impugned notices issued by the Assistant Commissioner (CT), Erode Assessment Circle in TIN 33772900453/ 2009-10 to 2014-15 dated 16.03.2015.

3. According to the learned counsel for the petitioner, notices had been issued proposing to assess the turnover for the above years relating to de-oiled cakes which is exempted as clarified by the Commissioner of Commercial Taxes in 14.03.2014 in A.C.A.A.R.57/2013-

14. Further, citing the Advance Ruling under Section 48-A of TNVAT Act, related to the product the petitioner filed detailed objections for the said notices. It is the apprehension of the petitioner that without relying upon the Advance Ruling and clarification of the Commissioner of Commercial Taxes, the authority may proceed for passing the assessment orders since the pre-assessment notices have no reference to the said Advance Ruling. Hence, she prays that the petitioner may be permitted to file additional objections, which shall be considered by the assessing authority in each and every aspect.

4. I have heard the learned Government Advocate (T) on the above aspects.

5. Considering the submissions, made by the learned counsel for the petitioner, these writ petitions are disposed of, with a direction to the respondents to afford an opportunity to the petitioner to file additional objections and then pass orders, on merits and in accordance with law within a period of six weeks, from the date of receipt of a copy of this order. The respondent is also directed that the Advance Ruling as well as the clarification in Acts Cell-II/24169/2013 given by the Commissioner of Commercial Taxes dated 14.03.2014, shall also be looked into while passing the assessment orders. No cost.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

smi

To,

1. The Assistant Commissioner,
Erode Rural Assessment Circle,
Erode, Erode District.

+6 ccs to M/s.R.Hemalatha, Advocate, sr.40009.
+1 cc to Special Government Pleader (Taxes), sr.40143

W.P. Nos. 23358 to 23363 of 2015

vgi(co)
kra(24/08)