In the High Court of Judicature at Madras

Dated : 06.8.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

and

The Honourable Mr.Justice T.MATHIVANAN

Writ Petition Nos.23864 to 23866 of 2015

and M.P.Nos.1,1,1,2 & 2 of 2015

Tvl.J.J.Warping and Sizing Mills,
rep. by its Partner Mr.Jegadeesan ...Petitioner in all the WPs

Vs

1.The State of Tamil Nadu, rep.by the Secretary, Commercial Taxes & Registration Department, Fort.St.George, Chennai-9. ...R1 in all WPs

2.The Commercial Tax Officer, Thiruchengode Town, Namakkal Dist. ..R2 in WP.23864/15 & R3 in WP23865/15 23866/15

3.The Appellate Deputy Commissioner, (CT)(FAC), Erode. ..R2 in WP.23865/15 &23866/15

PETITIONS under Article 226 of The Constitution of India praying for the issuance of a (i) Writ of Declaration declaring that Sections 19(1), 19(10)(a) and 19(11) of the Tamil Nadu Value Added Tax Act, 2006 and Rule 10(2) of the Tamil Nadu Value Added Tax Rules, 2007 are inconsistent with the charging Section 3 and the General Scheme of Annual Assessment under Sections 20, 21 and 22 of the Tamil Nadu Value Added Tax Act, 2006 and further void as being arbitrary and irrational infringing the rights of the petitioner under Articles 14 and 19(1)(g) and the resultant proposal to reverse the Input Tax Credit invoking Section 19(11) of the Tamil Nadu Value Added Tax Act as violative of Articles 265 and 300A of The Constitution of India, 1950 (W.P.No.23864 of 2015); (ii) a Writ of Certiorari to call for the records of the 2nd Respondent in proceedings in AP VAT.No.11/13 dated 13.2.2015 confirming the order passed by the 3rd respondent in TIN No. 33373182652/2011-12 dated 28.11.2012 quash the same as illegal and contrary to law (W.P.No.23865 of 2015) and (iii) a Writ of Certiorari to call for the records of the 2nd Respondent in proceedings in AP VAT.No.10/13 dated 13.2.2015 confirming the order passed by the 3rd respondent in TIN No.33373182652/2010-11 dated 28.11.2012 quash the same as illegal and contrary to law (W.P.No.23866 of 2015).

For Petitioner : Mr.N.Umapathi
For Respondents : Mr.A.N.R.Jayapratap, AGP(T)

COMMON ORDER

(Order of the Court was made by V.RAMASUBRAMANIAN,J)

The petitioner has come up with the above writ petitions challenging the Constitutional validity of Sections 19(1), 19(10)(a) and 19(11) of the Tamil Nadu Value Added Tax Act, 2006 and the related rules and for quashing the orders passed by the Appellate Authority.

2. Heard Mr.N.Umapathi, learned counsel for the petitioner. Mr.A.N.R. Jaya Pratap, learned Additional Government Pleader (Taxes) takes notice for the respondents.

3. The validity of these provisions has been upheld by a Division Bench of this Court in a judgment reported in U.S.A.Agencies & Others Vs. Commercial Tax Officer, Attur (Rural) Assessment Circle, Attur & Others [66 VST 75]. However, it appears that notice has been ordered in the special leave petitions. But, there is no stay. The mere fact that notices have been ordered in the special leave petitions would not have the effect of wiping out the decision rendered by the Division Bench.

4. Therefore, following the decision in U.S.A.Agencies, the above writ petitions are dismissed. No costs. Consequently, the above MPs are also dismissed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

rs

To

1.The Secretary to the Government of Tamil Nadu, Commercial Taxes & Registration Department, Fort.St.George, Chennai-9.

2.The Commercial Tax Officer, Thiruchengode Town, Namakkal Dist.

3.The Appellate Deputy Commissioner, (CT)(FAC), Erode.

+1 cc to Special Government Pleader (Taxes) Chennai-104
sr.40702

W.P.Nos.23864 to 23866/2015
& M.P.Nos.1,1,1,2 & 2 of 2015

rsk(co)
aa17/08/2015