IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2015

CORAM:

THE HONOURABLE Mr.JUSTICE **R.MAHADEVAN**

W.P.No.32387 and 32388 of 2015
and
M.P.Nos.1 and 1 of 2015

M/s.Vetrivel Explosives (P) Ltd.,
rep. by its Managing Director
R.Vijayakannan ... Petitioner in both the W.Ps

Vs

The Assistant Commissioner (CT),
Suramangalam Assessment Circle,
Salem, Salem District. ... Respondent in both the W.Ps

Writ petitions filed under Article 226 of the Constitution of India for the issuance of writ of mandamus to direct the respondent herein to rectify the error on the face of records in the assessment proceedings for the years 2012-13 and 2013-14 under TNVAT Act, 2006 dated 17.08.2015 and 06.11.2014 respectively by disposing of the petitions filed by the petitioner under Section 84 of TNVAT Act, 2006 dated 30.09.2015 as expeditiously as possible.

For Petitioner : Ms.R.Hemalatha in both the W.Ps

For Respondents : Mr.V.Haribabu,
Addl. Govt. Pleader (T)
in both the W.Ps

COMMON ORDER

Challenging the impugned orders passed by the respondent in TIN Nos.33142801908/2012-13 and 33142801908/2013-14 dated 17.08.2015 and 06.11.2014 respectively and for a further direction to the respondent to consider the petitions dated 30.09.2015 filed under Section 84 of TNVAT Act, 2006, the petitioner has come up with these writ petitions.

2.The petitioner is manufacturing explosives and an assessee on the file of the respondent. Though the monthly returns filed by the petitioner were accepted originally and assessment orders were passed, on subsequent verification, the respondent found certain defects and issued the proceedings dated 06.11.2014. Insofar as the assessment year 2012-13 is concerned, the petitioner filed a petition dated 26.03.2015 under Section 84 of the TNVAT Act for rectification of errors. Since there was a delay in disposing the said petition, the petitioner filed a writ petition in W.P.No.11111 of 2015, which was disposed of, with a direction to the respondent to consider the petition and pass appropriate orders. Pursuant to the said order, by the impugned proceedings dated 17.08.2015 the respondent cancelled the assessment in respect of freight and handling charges but stated that the stand of the respondent in respect of sales of explosives to Neyveli Lignite Corporation is correct. The petitioner filed a letter dated 28.09.2015 in respect of both assessment years, enclosing the VAT certificates issued by the Neyveli Lignite Corporation Limited and also filed petitions under Section 84 of TNVAT Act dated 30.09.2015, requesting to treat the supply of explosives to Neyveli Lignite Corporation as an industrial input taxable at 5%. Since the same has not been considered, the petitioner is before this Court.

3.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader (T) appearing for the respondent.

4.After receipt of the revised assessment orders for the assessment years 2012-2013 and 2013-2014, the petitioner filed objections along with VAT certificates issued by the Neyveli Lignite Corporation Limited and also filed petitions under Section 84 of

TNVAT Act dated 30.09.2015, requesting to treat the supply of explosives to Neyveli Lignite Corporation as an industrial input taxable at 5% and the said petitions are pending.

5.Learned counsel appearing for the petitioner submitted that the petitioner would be satisfied, if the respondent is directed to consider the petitions filed by the petitioner under Section 84 of the TNVAT Act, 2006 dated 30.09.2015 and pass orders on merits and in accordance with law, after affording due opportunity to the petitioner.

6.The learned Additional Government Pleader submitted that the respondent may be directed to consider the petitions filed by the petitioner under Section 84 of the TNVAT Act, 2006 and pass necessary orders.

7.Considering the submissions made by the learned counsel on either side, the respondent is directed to consider the petitions dated 30.09.2015, filed by the petitioner under Section 84 of the TNVAT Act and pass appropriate orders on merits and in accordance with law, after affording due opportunity to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

8.The writ petitions are disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

03.11.2015

Index : Yes/No
mmi

To

The Assistant Commissioner (CT),
Suramangalam Assessment Circle,
Salem, Salem District.

R. MAHADEVAN, J.

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W.P.Nos.32387 and 32388 of 2015

03.11.2015