IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.Nos.38603 to 38605 of 2015
and
M.P.Nos.1 of 2015 (3 NOS)

M/s.Infinite Leathers (P) Ltd; [Petitioner in All WPS.]
Rep. by its Director
50 Rajamuthiah Road
Periamet, Chennai-600 003.

Vs.

The Assistant Commissioner(CT)
Periamet Assessment Circle
10 Palaniappa Maaligai
Chennai-600 006. [Respondent IN ALL WPS.]

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records of the respondent in TIN/33521182866/2012-13 2013-14, 2014-15 respectivley and quash the orders dated 29.10.15.

For Petitioner : Mr.B.Raveendran

For Respondents : Mr.V.Haribabu, AGP(T)

C O M M O N O R D E R

Heard the learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader (Taxes), who took notice for the respondent and with their consent, the main writ petitions are taken up for disposal.

2. The writ petitions are filed challenging the orders of the respondent in TIN/33521182866/2012-13 to 2014-15 respectively dated 29.10.15.

3. The petitioner is a registered dealer on the files of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956. The

petitioner purchases leather goods locally from the registered dealers and interstate from dealers in other States on payment of appropriate taxes. The leather goods are sold by the petitioner locally, on inter-state basis and exported to other countries. The petitioner has been duly maintaining its books of accounts as per the provisions of the Act and correctly reporting its turnovers and duly paying the taxes thereon. The petitioner has also filed declaration in Form W for refund of taxes on export. The further case of the petitioner is that on the basis of the inspection conducted by the Enforcement Wing Officers on 09.12.2014, notices directing the petitioner to file their objections to the proposals were issued on 18.09.2015 and the same were served by RPAD. Since the petitioner did not file any objection, the respondent confirmed the proposals and passed the impugned orders, which are under challenge in these writ petitions.

4. According to the learned counsel for the petitioner, the Chartered Accountant, who was incharge of the assessment related issues informed the petitioner that he appeared before the officer and explained the contents in the objections filed. Further, the learned counsel also submitted that the records prepared by the Chartered Accountant in respect of the business transactions for the said assessment years were also filed before the respondent. But, without considering the said objections as well as the rate of tax related to the commodity in dispute, the impugned assessment orders came to be passed, that too without any discussions on the subject. Based on these, the learned counsel for the petitioner seeks to quash the impugned orders.

5. The learned Additional Government Pleader on the other hand submitted that having failed to file necessary objections, despite opportunity, the petitioner has no locus-standi to file the writ petitions. According to him, if aggrieved, it is for the petitioner to approach the appellate authority for seeking appropriate relief.

6. This Court considered the rival submissions made by the learned counsel on either side and perused the materials available on record.

7. It is apparent that there is no discussion with regard to taxability of the commodity in question, whether it attracts 5% or 14.5% tax. Further, no adequate opportunity was also granted to the petitioner. Hence, for the above reasons, the impugned orders are set liable to be set aside and accordingly, they are set aside. The petitioner is directed to file necessary objections to the notices already issued within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondent is directed to

pass appropriate orders on considering the said objections and after providing due opportunity to the petitioner within a period of four weeks thereafter.

With the above directions, the writ petitions are disposed of. No costs. Connected miscellaneous petitions are closed.

rg   Sd/-
                                           Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner(CT)
Periamet Assessment Circle
10 Palaniappa Maaligai
Chennai-600 006.

+ 1 CC TO THE SPL.GOVT.PLEADER (TAXES), HCT, MDS-104. SR 65850.

+ 1 CC TO Mr.B.Raveendran, Advocate Sr 65789.

SVL/CO
KR/23/12

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