IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30.03.2015
CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.9121 and 9122 of 2015
and
M.P.Nos.1 and 1 of 2015

M/s.Salora International Limited
represented by its Authorized signatory,
9/A, Srinivasan Street,
Kadaperi, Tambaram,
Chennai - 600 045. ... Petitioner in both W.Ps.

vs.

The Assistant Commissioner (CT),
Valluvarkottam Assessment Circle,
Chennai - 600 006. ... Respondent in both W.Ps.

Writ Petitions filed under section 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the respondent in TIN 33111502270/2011-12 and quash the orders dated 23.01.2015 passed therein.

For Petitioner in both WPs : Mrs.Hema Muralikrishnan

For Respondent in both WPs : Mr.A.N.R.Jayapratap
Additional Government Pleader (Taxes)

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C O M M O N O R D E R

Heard Mrs.Hema Muralikrishnan, learned counsel for petitioner and Mr.A.N.R.Jayapratap, learned Additional Government Pleader (Taxes). With the consent of both the parties, these writ petitions are taken up for final disposal at the admission stage itself.

2. Petitioner has filed these writ petitions seeking to quash the orders of the respondent dated 23.01.2015.

3. The case of the petitioner is that they are dealers in mobile phones and have Head Office at New Delhi and they have branches through out India. According to the petitioner, they have purchased mobile phones in Tamil Nadu on payment of tax and the same were exported through Mumbai Airport. Petitioner filed Form-W for refund of tax paid for mobile phones that were exported. The claim for refund in respect of exports effected during June 2011 and February 2012 was allowed after verification of records. Thereafter, the

respondent issued a notice stating that there are discrepancies in the export documents filed for the months of June 2011, December 2011, January 2012 and February 2012 and proposed to treat the export sales as local sales and estimated the sales turnover by adding 10% to the purchase value. The petitioner filed objections along with documents. According to the petitioner, the same was brushed aside by the respondent.

4. The case of the respondent is that since the place of origin is mentioned as 'Uttar Pradesh' or 'Delhi' in the shipping bills and the goods purchased in Tamil Nadu had not been exported, the respondent estimated the local sales turnover and levied tax. Hence, the respondent rejected the claim of refund and demanded payment of the sums that were granted as refund for the months June 2011 and February 2012.

5. The petitioner submitted that the respondent has completely overlooked the fact that the petitioner had not effected export sales and had sold the goods locally. The petitioner is entitled to input tax credit of the tax paid on purchases. The petitioner stated that they have received a communication from the Customs Department regarding amendment of place of origin from 'Delhi' to 'Chennai' in respect of four shipping bills and similar amendment in respect of other shipping bills is awaited. Petitioner also stated that they have filed an affidavit stating that the State of Origin is Tamil Nadu and it has been wrongly mentioned as Uttar Pradesh.

6. Without going into the merits of the matter, the respondent shall take into account the affidavit filed by the petitioner and ascertain the details mentioned in the affidavit about the State of Origin whether it is Uttar Pradesh or Tamil Nadu and thereafter, give effect to the order dated 23.01.2015. In case, the respondent feels that the State of origin is only Tamil Nadu, the impugned orders dated 23.01.2015 stand automatically quashed and it is open to the respondent to pass appropriate orders in accordance with law. If the State of Origin is Uttar Pradesh, it is open to the respondent to recover the amount mentioned in the impugned orders.

These Writ Petitions are disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

The Assistant Commissioner (CT),
Valluvarkottam Assessment Circle,
Chennai - 600 006.

+1 cc to Mr.L.Muralikrishnan, Advocate,SR.17855.

+1 cc to Spl.Government Pleader (T)SR.17843.

gr(co)
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