IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 03.07.2015

CORAM :

THE HON'BLE MR. JUSTICE R. SUDHAKAR
AND
THE HON'BLE MS. JUSTICE K.B.K. VASUKI

W.P. Nos: 17330 & 17331 of 2008

Tvl. Sakthi Trading Company
S.F. No: 1062/5 Perumalpalayam
Mullampatti Post 638 107
Perundurai Taluk
Erode District. ...Petitioner in W.P.No.17330 of 2008

Sakthi Masala (P) Ltd.
Perumalpalayam
Mullampatti Post 638 107
Perundurai Taluk
Erode District. ...Petitioner in W.P.No.17331 of 2008

-vs-

1. The Special Commissioner and
Commissioner of Commercial Taxes
Chepauk
Chennai - 600 005.

2. The Commercial Tax Officer
Perundurai
Erode District. ...Respondents in both the writ petitions

Writ petitions under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records relating to the Notices both dated 10.07.2008 issued by the 2nd respondent in connection with the petitioners' TNGST . 2920699/2001-2002 and TNGST 2922200/2002-2003 and quash the same.

For petitioners : M/s. N. Inbarajan

For respondents : Mr. ANR Jayaprathap
Govt. Advocate (Taxes)

C O M M O N O R D E R
(Order of the Court was made by R. Sudhakar, J.)

These writ petitions have been filed challenging the notices demanding tax on the first sale of the commodity in question.

2. Learned counsel appearing for the petitioners pleads that the relief sought for can be granted based on the decision of this Court in one of the petitioner's case viz. Sakthi Masala (P) Ltd. and another vs. Assistant Commissioner (CT), Perundurai Assessment Circle, Perundurai, reported in 2013 (64) VST 385 (Mad.). However, according to the learned Government Advocate (Taxes) the impugned orders are only notices and that the respective assessee, without filing its reply, have rushed to this Court.

3. In view of the aforesaid submission, we feel that it would be appropriate to direct the petitioners to file its objections to the notices respectively on merits on the basis of the reported decision on the same issue and it is for the authorities concerned to decide whether the facts in the decided case are applicable to the assessees case as well.

4. Accordingly, we dispose of both these writ petitions with liberty to the petitioners to submit their reply to the notices within 15 days from the date of receipt of a copy of this order and thereafter, the authorities concerned shall decide the issue on merits and in accordance with law. Connected miscellaneous petitions are closed. There shall be no orders as to the costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Commissioner and
   Commissioner of Commercial Taxes
   Chepauk
   Chennai - 600 005.

2. The Commercial Tax Officer
   Perundurai
   Erode District.

1 CC to M/s. N. Inbarajan, Advocate SR.No. 33397

1 CC to the Government Pleader (Taxes), SR.No. 33660

W.P. Nos. 17330 and 17331 of 2008

AK (CO)
PSI (28.09.2015)