IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2016

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.5501 to 5506 of 2014 (six in nos)
and
M.P.Nos1 of 2014 (six in nos)

Madura Tarpaulin Mfg. Company
rep. by its Proprietor,
Devendra Kumar Karnawat ...Petitioner in all WPs

Vs.

The Assistant Commissioner (CT)
Peddunaickenpet (S) Assessment Circle,
4th Wavvoo Complex,
191 NSC Bose Road,
Chennai - 600 001. ...Respondent in all WPs

These Writ Petitions filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records on the files of the respondent in his CST No.86112/2007-08, CST 86112/2008-09, CST 86112/2009-2010, TIN 33770280871/2007-2008, 2008-2009, 2009-2010 respectively, dated 27.01.2014, and to quash the same with a direction to initiate de novo proceedings for the purpose of levy of tax on the sales relating to Tarpaulin made of HDPE and Plastic Tarpaulin.

In all W.Ps.

For Petitioner : Mr.N.Inbarajan

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader (Tax)

COMMON O R D E R

Heard Mr.N.Inbarajan, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax).

2. In these Writ Petitions, the petitioner have challenged the assessment orders passed under the provisions of Central Sales Act, 1956 and Tamil Nadu Value Added Tax Act, 2006, for the assessment years, 2007-08 to 2009-10.

3. Though elaborate submissions have been made by the learned counsel on either side, the short issue which falls for consideration in these Writ Petitions is as to whether the respondent was justified in demanding higher rate of interest at 12.5%, on the ground that Circular/Clarification, dated 31.05.2007 was cancelled.

4. On a perusal of the impugned orders in both sets of Writ Petition, it is evidently clear that, the Assessing Officer was solely guided by the Circular, dated 25.03.2008. On a perusal of the pre revision notices issued by the respondent, it is seen that the respondent did not refer to the Circular, dated 25.03.2008.

5. The case of the petitioner is that the Circular, dated 25.03.2008, was not applicable to the case of the petitioner, as there are manufacturers of Tarpaulin made of LDPE and HDPE, and the Circular dated 31.05.2007, still holds good. In this regard, the learned counsel referred to both Circulars and what has been cancelled by the Circular, dated 21.05.2007, is only an exemption, which was granted to Tarpaulin made of Synthetic Fabric and Cotton Canvas, as per Circular, dated 31.05.2007, and the rate of tax, fixed at 4% for Tarpaulin made of LDPE and HDPE has not been withdrawn/cancelled in the subsequent circular. However, since the impugned assessment orders have been made without making known to the petitioner about the manner in which, the respondent sought to interpret the Clarification/Circular, this is a fit case, where the assessment should be redone, but, after affording an opportunity of personal hearing to the petitioner.

6. Accordingly, these Writ Petitions are allowed, the impugned orders are set aside, and the matter is remanded to the respondent for fresh consideration, who shall afford an

opportunity of personal hearing to the petitioner, and permit the petitioner to produce all the documents, and thereafter, shall redo the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sd

To

The Assistant Commissioner (CT)
Peddunaickenpet (S) Assessment Circle,
4th Wavvoo Complex,
191 NSC Bose Road,
Chennai - 600 001.

+1cc to Mr.N.Inbarajan, Advocate, S.R.No. 62390

+1CC to Special Government Pleader, SR 63117

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(six in nos)

SK (CO)
PSI (02/12/2016)