IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-04-2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.Nos.16672, 16673 and 16674 of 2016
and
WMP Nos.14407,14408 and 14409 of 2016

Tvl.Rajalakshmi Agencies,,
rep by its Partner,
No.40/2, V.P.M, Complex,
Kurinjipadi-607 303

..... Petitioner in all the writ petitions

v.

The Assistant Commissioner (CT),
Cuddalore Taluk

.... Respondent in all the writ petitions

Writ Petitions filed under Article 226 of the Constitution of India to issue Writs of Certiorarified Mandamus to call for the records of the respondents in TIN Nos.33554402425/2011-12; 33554402425/2012-13; and 33554402425/2013-14 ; dated 08.04.2015 and quash the same as illegal and unconstitutional and also to direct the respondent to pass fresh orders after considering the option letter dated 29.04.2010 filed by the petitioner as provided under Section 3 (4) of the TNVAT Act and to verify the same before passing fresh orders of assessment.

For Petitioner : Mr.A. Ravichandran

For Respondent : Mr.S. Manoharan Sundaram
AGP(T)

COMMON ORDER

The petitioner has filed the above writ petitions to issue writs of Certiorarified Mandamus to call for the records of the respondents in TIN Nos.33554402425/2011-12; 33554402425/2012-13; and 33554402425/2013-14 ; dated 08.04.2015 for the Assessment Years 2011-12, 2012-13 and 2013-14 and quash the same and to direct the respondent to pass fresh orders after considering the option letter dated 29.04.2010 filed by the petitioner as provided under Section 3(4) of the TNVAT Act and to verify the same before passing fresh orders of assessment.

2. It is the case of the petitioner that the respondent had issued an initial order of Assessment under Sec.22(4) of the TNVAT Act on 29.09.2014 without granting an opportunity to the petitioner, which was challenged before this Court in W.P.No.34394/2014, wherein, the said order of assessment was set aside. According to the petitioner, the observation made by the petitioner is erroneous, since the petitioner's firm had already filed his option letter for exercising its option to pay tax at compounded rate under Section 3(4) on 29.04.2010 itself which was also duly acknowledged by the respondent on the very same date.

3. The petitioner firm also placed reliance on the Circular issued by the Commissioner of Commercial Taxes, Chennai in Circular No.15/2007 dated 29.08.2007. Further, the petitioner had submitted that they are ready and willing to submit all the necessary books of accounts as required by the respondent to pass fresh orders after considering the same.

4. Mr.S. Manoharan Sundaram, learned Additional Government Pleader, taking notice for the respondent, submitted that since the petitioner had filed Form-K there is no necessity for the respondent to state that the dealer revealed that they had not exercised their option to file the monthly returns as mandated under Section 3(4) of the Act. Further, the learned Additional Government Pleader submitted that the petitioner may be directed to produce the purchase and sale details before the respondent and the respondent may be directed to decide the matter afresh.

5. In view of the submissions made by the learned counsel on either side, since the petitioner has been filing Form-K before the respondent, there is no necessity for the respondent to state that the dealer revealed that they had not exercised their option to file the monthly returns, as mandated under Section 3(4) of the TNVAT Act and since the petitioner is having the purchase and sale details, the petitioner can be directed to produce the same before the respondent. Accordingly, the impugned orders dated 8.4.2015 are set aside and the matter is remanded to the respondent for fresh consideration. The petitioner is directed to produce the purchase and sale details within a period of two weeks from the date of receipt of copy of this order. Thereafter, the respondent is directed to decide the matter afresh and pass orders, on merits and in accordance with law, taking into consideration the objections filed by the petitioner and after affording due opportunity of personal hearing to the petitioner and also taking into consideration the

documents, to be filed by the petitioner. With these observations, all the writ petitions are disposed of. No costs. Consequently, connected Mps are closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

sr

To

1. The Commissioner of Commercial Taxes,
Cuddalore Taluk.

2.The Assistant Commissioner (CT),
Cuddalore Taluk

+1 cc to A.Ravichandran, Advocate, sr.27683
+1 cc to Special Government Pleader, sr.28056

W.P.No.16672 to 16674 of 2016

pvs co
kra 04.05.2016