IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.30087 to 30102 of 2013

W.P.No.30087 of 2013 to WP.No.30102/2013:

Tvl. Bata India Limited
rep.by its Vice President, Legal
Mr.Manoj Goswani .. Petitioner in all WPs

..Vs..

The Assistant Commissioner CT
Central Assessment Circle-I
C.T.Buildings Greams Road
Chennai-600 006 ..Respondent in WP.30088, 30089, 30090,30091, 30092 30093,30094/16

The Assistant Commissioner(CT)
Zone IX CT Buildings
Greams Road, Chennai-600 006 ...Respondent in WP.30095, 30096,30098,30099,30100/16

1.The Assistant Commissioner (CT)
Fast Track Assessment Circle-I
C.T.Buildings, Greams Road,
Chennai 600006.
.. Respondent in WP.30087, 30097, 30101, 30102/13

WP.No.30087 to 30102/2013:
Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the respondent to give effect to the order of the Hon'ble Tax Bench of this Court in 1)TC(R) Nos.847/2006, dated 04.01.2013 for TNGST AY1987-88 (2) TC(R) No.867/2006, dated 04.01.2013 for TNGST AY1988-89 (3) TC(R) No.857/2006, dated 04.01.2013 for TNGST AY1989-90;(4) TC(R) No.837/2006, dated 04.01.2013 for TNGST AY1989-90;(5) TC(R) No.868/2006, dated 04.01.2013 for TNGST AY1990-91;(6) TC(R) No.1736/2006, dated 04.01.2013 for TNGST AY1991-92;(7) TC(R) No.7/2009, dated 04.01.2013 for TNGST AY1992-93;(8) TC(R) No.1725/2008 dated

04.01.2013 for TNGST AY1993-94;(9) TA No.523/2002, dated 25.04.2013 for TNGST AY1994-95;(10) TA No.524/2002, dated 25.04.2013 for TNGST AY1995-96;(11)TA.No.528/2002, dated 25.04.2013 for TNGST AY 1996-97;(12)TA.No.525/2002, dated 25.04.2013 for TNGST AY 1997-98;(13)TA.No.512/2002, dated 25.04.2013 for TNGST AY 1998-99;(14)TA.No.307/2002, dated 25.04.2013 for TNGST AY 1999-2000;(15)TA.No.245/2003, dated 25.04.2013 for TNGST AY 2000-2001;(16)TA.No.88/2006, dated 25.04.2013 for TNGST AY 2001-2002, by passing a Consequenial order of the disputed tax, additional Tax, surcharge paid by the Petitioner under protest.

For Petitioner : Mr.B.Sivaraman
(in all W.Ps.)

For Respondents: Mr.S.Kanmani Annamalai
(in all W.Ps.) Additional Govt. Pleader (Tax)

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C O M M O N O R D E R

Heard Mr.B.Sivaraman, learned Counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent, in all the Writ Petitions.

2.These Writ Petitions have been filed for issuance of writ of mandamus to direct the respondent to give effect to the order passed by the Sales Tax Appellate Tribunal, Additional Bench in T.C.Nos.847 of 2006 etc. and consequently, order refund of the disputed tax, Additional Tax, Surcharge paid by the petitioner under protest.

3. The Tribunal took into consideration the decision of the Hon’ ble Division Bench of this Court in Tax Case Revision Nos.1725 &1736 of 2008 and 7 of 2009 dated 4.1.2013, wherein the following two questions were considered.

> "1.Whether the Tribunal is correct in law, in interpreting Section 2(r) Explanation 1-A of the TNGST Act to hold that the assessee would be entitled to an exclusion of tax element only if it is shown separately in the bill ?

2.Whether the Tribunal is justified in law in affirming the levy of penalty u/s 12(3)(b) relating to the assessment year 93-94 in view of the explanation added to section 12(3)(b), which is clarificatory in nature."

In the said Tax Cases (Revision), the Hon'ble Division Bench answered both the questions in favour the petitioner/assessee and the said decision had become final.

4.The Revenue preferred Tax Case in Revision in T.C.(R) Nos.837, 847, 857, 867 and 868 of 2006, as against the orders passed by the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench) for the assessment years 1987-88, 1989-90, etc., which were dismissed by this Court, by Judgment dated 04.01.2013.

5. Thus, following the decision passed by this Court in the aforementioned Tax Case Revisions, the Sales Tax Appellate Tribunal has passed the above orders in favour of the petitioner. Now the petitioner seeks for implementation of the order of the Tribunal by passing appropriate orders, which consequently would result in refund of the disputed tax, additional tax and surcharge paid by the petitioner. In fact in respect of the assessment years from 2002-2003 to 2006-2007, the petitioner had filed similar Writ Petitions in W.P.Nos.30103 to 30107 of 2013. Since the Assessing Officer had implemented the order of the Tribunal and the assessments have to be finalised for relevant years by adopting the legal principle laid down in Tax Revision Case, and refunds effected, those Writ Petitions were dismissed as withdrawn today (15.09.2016).

6.In the light of the above, these Writ Petitions are allowed and the respondent is directed to pass orders implementing the decisions of the Tribunal within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Assistant Commissioner (CT)
Fast Track Assessment Circle-I
C.T.Buildings, Greams Road,
Chennai 600006.

2.The Assistant Commissioner(CT)
Zone IX CT Buildings
Greams Road, Chennai-600 006

3.The Assistant Commissioner (CT)
Fast Track Assessment Circle-I
C.T.Buildings, Greams Road,
Chennai 600006.

+2 ccs to Mr.Lakshmi Sriram Advocate sr 52379
+1 cc to the Special Government Pleader Taxes sr 52498

W.P.Nos.30087 to 30102 of 2013

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