IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.34519 and 34520 of 2015
and
M.P.Nos.1 and 1 of 2015

Tvl.National Agricultural Co-operative
Marketing Federation of India Ltd.,
Rep. by its Branch Manager Mr.V.Vinay Kumar,
'Crescent Court' 2nd Floor,
No.108, Poonamallee High Road,
Chennai - 84. ... Petitioner in both W.Ps

Vs

The Assistant Commissioner,
Purasavakkam Assessment Circle,
7th Floor, Dowlath Towers,
No.57-59, Taylors Road,
Chennai - 10. ... Respondent in both W.Ps

Prayer in W.P.No.34519 of 2015: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the respondent proceedings in CST No:788121/2007-08 dated 25.09.2015 and quash the same being illegal, invalid without auhtority of law and violated the principles of natural justice and also law laid down by this Court.

Prayer in W.P.No.34520 of 2015: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the respondent proceedings in CST No:788121/2008-09 dated 25.09.2015 and quash the same being illegal, invalid without auhtority of law and violated the principles of natural justice and also law laid down by this Court.

For Petitioner in both W.Ps : Mr.D.Vijayakumar

For Respondent in both W.Ps : Mr.S.Kanmani Annamalai
Additional Government Pleader

COMMON ORDER

Heard Mr.D.Vijayakumar, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent and with their consent, the writ petitions are taken up for disposal.

2.The petitioner is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) and the Central Sales Tax Act, 1956 (CST Act). In these writ petitions, the petitioner have challenged the orders of assessment for the years 2007-08 and 2008-09 under the provisions of the CST Act. The assessment for the earlier years had been completed by extending the benefit of G.O.Ms.No.25, Commercial Tax Department dated 27.03.2002 and tax was levied at the rate of 2%. However, for the subject assessment years, the Assessing Officer stated that the State Government cannot pass such a Government Order and declined to extend the benefit of the concessional rate of tax. This observation has been made without proper appreciation of the scope of Section 8(5) of the CST Act. Therefore, the impugned orders called for interference.

3.Accordingly, the writ petitions are allowed and the impugned orders are set aside and the matter is remanded to the respondent for fresh consideration, who shall extend the benefit of G.O.Ms.No.25 Commercial Tax Department dated 27.03.2002 and re-do the assessment by levying tax at 2%. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

cse
To

The Assistant Commissioner,
Purasavakkam Assessment Circle,
7th Floor, Dowlath Towers,
No.57-59, Taylors Road, Chennai - 10.

+1cc to Mr.D.Vijayakumar, Advocate, S.R.No.45370
+1cc to the Special Government Pleader(T), S.R.No.45425

W.P.Nos.34519 and 34520 of 2015
and M.P.Nos.1 and 1 of 2015

NRJK(CO)
CA(29/08/2016)