IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2016

CORAM:

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

Writ Petition Nos.36578 to 36585 of 2015

& M.P.Nos.1 to 1 of 2015

M/s. DCM Shriram Ltd.,
Rep. By its Authorised Signatory,
No.1 Vannier Street,
Chennai - 600 001 ... Petitioner in all W.Ps.

Versus

The Assistant Commissioner (CT),
Broadway Assessment Circle,
Thambu Chetty Street,
Chennai - 600 001 .. Respondent in all W.Ps.

Prayer:- Petitions filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari to call for the records of the respondent in TIN:33320060880/2007-08; 2008-09; 2009-10; 2010-11; 2011-12; 2012-13; 2013-14 and 2014-15, respectively, and to quash the impugned orders, dated 30.09.2015.

For Petitioner in all W.Ps. : Mr. V.Sundareswaran
For Respondent in all W.Ps : Mr. S.Kanmani Annamalai, A.G.P.,

C O M M O N O R D E R

Heard Mr. V.Sundareswaran, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, appearing for the respondents, in all the writ petitions. By consent of the learned counsel for both sides, the writ petitions are taken up for final disposal.

2. The petitioner, in all the above writ petitions, who is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter will be referred to as "the Act") has filed these writ petitions, challenging the orders of assessment, for the financial (assessment) years 2007-08, 2008-09, 2009-10, 2010-11,

2011-12, 2012-13, 2013-14 and 2014-15.

3. The place of business premises of the petitioner was inspected by the Enforcement Officials on 14.11.2014 and certain defects were noticed. Based on the report given by the Enforcement Wing, the respondent issued a notice, dated 17.07.2015, for which, Objections were filed by the petitioner on 10.09.2015. The respondent has completed the assessment and passed the impugned orders, dated 30.09.2015.

4. The first issue that was pointed out is that the petitioner has effected transactions from registration cancelled dealers and therefore, the Input Tax Credit has to be reversed. The second issue is that on ascertaining details from the Official Website of the Department, it was found that the other end dealers' Annexure-II did not match with Annexure-I of the petitioner. The third issue is with regard to the reversal of Input Tax Credit for breakage of glasses. The fourth issue being Input Tax Credit reversal under Section 19 (11) of the Act.

5. So far as the first two issues are concerned, they are squarely covered by a decision of this Court, namely, (2012) 50 VST 179 (Althaf Shoes (P) Ltd., v. Assistant Commissioner (CT), Valluvarkottam Assessment Circle, Chennai) and (2010) 27 VST 358 (Mad) (State of Tamil Nadu v. Sri Vinayaga Agencies).

6. With regard to the third issue, viz., regarding manufacture loss is concerned, it is covered by a decision reported in (2015) 81 VST 389 (Mad) (Interfit Techno Products Limited v. Principal Secretary of Commercial Taxes, Chennai), which has been affirmed by this Court in a Writ Appeal also.

7. With regard to the fourth issue is concerned, the matter is now pending before this Court and being heard.

8. Though the petitioner has pointed out all these things in the replies given by them, the respondent, without taking into consideration, has completed the assessments. The manner in which the assessments have been completed would not stand the scrutiny of law. Therefore, the assessments have to be re-done in accordance with law.

9. Accordingly, these writ petitions are allowed, impugned orders are set-aside and the matters are remanded back to the respondent for fresh consideration, who shall take note of the above legal position and re-do the assessments, in accordance with law, after affording an opportunity of personal hearing to

the petitioner, in all the writ petitions. No costs. Consequently, the connected MPs are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

srk

To

1. The Assistant Commissioner (CT),
Broadway Assessment Circle,
Thambu Chetty Street,
Chennai - 600 001

+1 CC to Mr. V. Sundareswaran, Advocate Sr.No.52490
+1 CC to Special Government Pleader (Taxes), Sr.No.52416

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TRM (CO)
MD : 07/10/2016