IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.08.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition Nos.27256 and 27257 of 2016
and
W.M.P.Nos.23429 and 23430 of 2016

M/s. Aakavi Spinning Mills Pvt., Ltd.,
rep. by its Director R.Selvaraj ...Petitioner in both W.Ps.

Vs.

1. The Authority for Clarification and Advance Ruling,
rep. by its Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai- 600 005.

2. The Assistant Commissioner (CT)
Periya Agraharam Assessment Circle,
Erode, Erode District. ...Respondents in both W.Ps.

Prayer in W.P.No.27256 of 2016

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus forbearing the second respondent from, in any way proceeding further in pursuance of the notice issued in TIN No.33243076654/2012-13, dated 08.01.2016, pending disposal of the Review Petition filed by the petitioner under Section 48-A (4) of TNVAT Act, 2006, dated 08.07.2016 before the first respondent.

Prayer in W.P.No.27257 of 2016

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus forbearing the second respondent from, in any way proceeding further in pursuance of the notice issued in TIN No.33243076654/2013-14, dated 08.01.2016, pending disposal of the Review Petition filed by the petitioner under Section 48-A (4) of TNVAT Act, 2006, dated 08.07.2016 before the first respondent.

For Petitioner : M/s.R.Hemalatha

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

COMMON O R D E R

Heard M/s.R.Hemalatha, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepting notice for respondents, and with their consent, the Writ Petitions are taken up for final disposal, at the stage of admission.

2. The petitioner has approached this Court to forbear the second respondent/Assessing Officer, from proceeding further with the notices, dated 08.01.2016, which are notices, proposing to revise the assessment for the years, 2012-13 and 2013-14, under the provisions of Tamil Nadu Value Added Act, 2006 (hereinafter, referred to as 'TNVAT Act') on the ground that the petitioner has filed Review Petition before the first respondent under Section 48-A (4) of TNVAT Act, on 08.07.2016, wherein, they have requested for reviewing the clarification issued in A.C.A.A.R. 22/2012-13, 14.02.2013.

3. It is pointed out by the learned counsel appearing for the petitioner that, in a batch of cases, the Hon'ble Division Bench of this Court, (to which, I was also a party) in the case of (M/s. Velur Nagara Anaithu Varthaga Sangam Vs. State of Tamil Nadu) in Writ Appeal Nos.1660 etc., of 2013, had issued directions to the second respondent to entertain the Review Applications under Section 48-A (4) of TNVAT Act, as the earlier clarification was stated to be not applicable to those appellants. It is submitted that, after the Division Bench disposed of the matters, by a common judgment, dated 26.08.2014, issuing direction to the first respondent, the first respondent has reduced the rate of tax.

4. In the light of the fact that the petitioner has approached the first respondent, seeking review of the clarification, dated 14.02.2013, and the second respondent's proposal to revise the assessment, is solely based on the clarification issued by the first respondent, dated 14.02.2013, it would be appropriate for the second respondent to wait till a decision is taken by the first respondent on the Review Petition filed by the petitioner. Accordingly, there will be a direction to the first respondent to consider the Review Petition filed by the petitioner, dated 08.07.2016, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. Till then, the second respondent shall not proceed further pursuant to the Revision Notices, dated 08.01.2016, and further proceeding shall be kept in abeyance and abide by the orders to

be passed by the first respondent.

5. With the above directions and observations, the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Authority for Clarification and Advance Ruling,
rep. by its Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai- 600 005.

2. The Assistant Commissioner (CT)
Periya Agraharam Assessment Circle,
Erode, Erode District.

1 cc to Special Government Pleader, (Taxes), sr.44453
2 ccs to Mrs.R.Hemalatha, Advocate, sr.44378

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skv co
kra 22.08.2016