IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.Nos.33184 to 33186 of 2016
& WMP Nos.28708 to 28710/2016

Blessed Stars,
Rep.by its Proprietor,
No.21A/11, MGR Nagar,
13th Main Road, Velachery,
Chennai-600 042. ..Petitioner in all the writ petitions

Vs

The Assistant Commissioner (CT)
Velacherry Assessment Circle,
No.28, Greenways Road, RA Puram,
Chennai 600 028. .. Respondent in WP No. 33184 & 33185/2016

The Assistant Commissioner (CT)
Velacherry Assessment Circle,
28, Pasumpon Muthuramalingam Salai,
RA Puram,
Chennai. .. Respondent in WP No.33186/2016

COMMON PRAYER: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari or any other appropriate Writ, order or direction in the nature of a writ to call for the entire records of the respondent in CST: 1135594/2013-2014, CST: 1135594/2014-2015, CST 1135594/2014-2015 dated 26.05.2016 and 11.07.2016 and 11.07.2016 respectively and quash the order passed therein.

For Petitioner : Mr.A.P.Srinivas
all WPs

For Respondent : Mr.K.Venkatesh
all WPs Government Advocate (T)

COMMON ORDER

Heard Mr.A.P.Srinivas, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate (T) accepting notice for the respondent and with the consent on either side, the writ petitions are taken up for final disposal.

2 The petitioner, in these writ petitions, is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956 and it challenges the orders of assessment under the Central Sales Tax Act, 1956 for the Assessment Years 2013-2014 and 2014-2015.

3 It is seen that pre-revisional notice was issued on 06.07.2015 and the only proposal in the notice was with regard to the inter-state sales against "C" Forms and "C" Forms having not been availed, the respondent proposed to revise the turnover and tax the transactions. This was followed by another pre-revisional notice dated 15.09.2015, where also, there was only such proposal with regard to the non-production of "C" Forms. This issue was common to all the Assessment Years. The petitioner, on receipt of the notice, produced "C" Forms and the respondent while considering the explanation offered by the petitioner and the "C" Forms, verified the same and found it to be correct and allowed concessional rate of tax. However, sought to reverse the Input Tax Credit [ITC] u/s.19[2][v] and 19 [5][a] of the TNVAT Act, 2006. In the absence of any proposal in the show cause notice, this could not have been done by the respondent, even assuming that he has some material to do so.

4 Therefore, on that technical ground, the impugned orders, in CST: 1135594/2013-2014, CST: 1135594/2014-2015, dated 26.05.2016 and 11.07.2016 respectively insofar as directing reversal of ITC u/s.19[2][v] and 19[5][a] of the Act, are quashed and in other aspects, the orders of assessment, being in favour of the dealer/petitioner herein, is confirmed.

5 The writ petitions are partly allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Assistant Commissioner (CT)
Velacherry Assessment Circle,
No.28, Greenways Road,
RA Puram,
Chennai-600 028.

2.The Assistant Commissioner (CT)
Velacherry Assessment Circle,
28, Pasumpon Muthuramalingam Salai,
RA Puram,
Chennai.

1 cc to Special Government Pleader, sr.54050
1 cc to Mr.A.P.Srinivas, Advocate sr.54071

WP.Nos.33184 to 33186 of 2016

rv co
kra 19.10.2016