IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.35276 & 35277 of 2016 and
WMP Nos.30389 & 30390 of 2016

Tvl. Cassel Research
Laboratories P Ltd.,
rep. by its Managing Director
R.Murugan

.. Petitioner in both W.Ps.

vs.

The Assistant Commissioner (CT)
Ekkatuthangal Assessment Circle
No.46, Greenways Road
Chennai 600 028.

.. Respondent in both W.Ps.

COMMON PRAYER : Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of writ of Certiorari to call for the records of the respondent in CST/717245/2013-2014 & 2014-2015 dated 10.07.2015 & 27.02.2016, respectively and quash the same as arbitrary, illegal.

For Petitioner : Mr.P.R.Kumar
(in both W.Ps.)

For Respondent : Mr.K.Venkatesh
(in both W.Ps.) Govt.Advocate

C O M M O N O R D E R

Heard Mr.P.R.Kumar, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate accepting notice for the respondent in both Writ Petitions. With the consent of the learned counsel appearing on either side, the Writ Petitions are taken up for disposal.

2.The petitioner who is a dealer in Drugs and Medicines, is registered on the file of the respondent, under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act), has come forward with these Writ Petitions, challenging the orders of assessment dated 10.07.2015 & 27.02.2016, for the assessment years 2013-2014 & 2014-2015, respectively, under the provisions of the Central Sales Tax Act, 1956 [CST Act].

3.The only ground urged by the petitioner is that the pre-revision notice dated 01.07.2015 in respect of the assessment year 2013-14, has been issued, granting fifteen days time for submitting their reply. However, well before the expiry of the fifteen day period, on 10.07.2015, the impugned order has been passed, which is challenged by the petitioner in W.P.No.35276 of 2016. In respect of W.P.No.35277 of 2016, it is submitted that the petitioner is now in possession of C-Forms and Form-H, and pleaded that an opportunity may be granted to the petitioner to submit the same.

4.Since the dates are very clear from the records, there can be no doubt that the respondent has passed the impugned order in violation of principles of natural justice. However, for that reason, this Court does not propose to set aside the orders impugned in these Writ Petitions.

5.Accordingly, the petitioner is directed to treat the impugned orders as show cause notices, submit their replies within a period of fifteen days from the date of receipt of a copy of this order and produce Form-C and Form-H statements along with explanations. On receipt of the same, the respondent shall verify all the Forms and if they are in order, accept the Forms, since this Court is of the view that the petitioner shall not be denied the concessional rate of tax on this sole ground and thereafter, the respondent shall redo the assessments in accordance with law. It is needless to mention that since this Court directed the petitioner to treat the impugned assessment orders as show cause notice, the respondent shall not initiate any coercive action to recovery of tax and penalty.

The Writ Petitions are disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

05/10/2016

BEING MENTIONED

This matter having been Listed on 25.10.2016 for being mentioned in pursuance of order dated 05.10.2016 and made herein and in the presence of the aforesaid the Court made the following order:

This matter came up for hearing today under the caption 'For Being Mentioned to' at the instance of the learned counsel for the petitioner.

2.The learned counsel for the petitioner submits that the petitioner is in possession of Export Documents, and in the order passed in these Writ Petitions dated 05.10.2016, the respondent may be directed to be consider Forms-C, Form-H, as well as export documents.

3.Accordingly, in paragraph Nos.3 & 5 of the order dated 05.10.2016, after the place where C-Forms and Form-H occur, the following shall be inserted:

"as well as export documents"

Except for the above inclusion, other directions issued in the order stands as such.

Sd/-
Assistant Registrar(CS II)
dt:02/11/2016

//True Copy//

Sub Assistant Registrar

rpa

To

The Assistant Commissioner (CT)(To be substituted the order
Ekkatuthangal Assessment Circle(already despatched on 21.10.2016)
No.46, Greenways Road
Chennai 600 028.

+2ccs to M/s. P.R. Kumar, Advocate, ***S.R.No.60853,60854**
+1cc to the Government Pleader, S.R.No.57412

PPA(CO)
EU(21/10/2016)
ctk(co)
aa02/11/2016

W.P.Nos.35276 &
35277 of 2016