

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2016

CORAM:

THE HON 'BLE MR. JUSTICE B.RAJENDRAN

Writ Petition No.39508 of 2016
& W.M.P.No.33793 of 2016

Tvl. Vansun Intermediate,
Represented by its Proprietor,
R.Balakrishnan,
Wellington Estate,
17 Ethiraj Salai,
Egmore, Chennai 600 008 ... Petitioner

Versus

1. The Assistant Commissioner (CT),
Adyar-I Assessment Circle,
No.46 Greenways Road,
Chennai 600 028
2. The Assistant Commissioner (CT),
Kotturpuram Assessment Circle,
Chennai 600 028
3. The Appellate Assistant
Commissioner (CT),
(East), Office of the Appellate
Deputy Commissioner (CT)
(East), 3rd Floor, Greams Road,
Chennai 600 006 ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the second respondent in TNGST No.150606/94-95, dated 25.10.2016, quash the same as being without jurisdiction and authority of law and further direct the first and second respondents to await the order reserved by the third respondent on 31.10.2016 on the appeal memorandum in A.P.No.65/14/TNGST and thereafter proceed further in accordance with law.

For Petitioner : Mr. R.Senniappan

For Respondents : Mr. S.Kanmani Annamalai,
Spl.G.P., (Taxes)

O R D E R

Heard Mr.R.Senniappan, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Special Government Pleader for respondents. By consent of the learned counsel for both sides, the writ petition is taken up for final disposal.

2. According to the petitioner, the petitioner is a registered dealer under the erstwhile Tamil Nadu General Sales Tax Act, 1959, during the relevant assessment year, namely, 1994-95 and the order of assessment passed by the first respondent on 30.10.2004 had been brought to the notice of the Appellate Authority in A.P.No.209/2004 and thereafter, went to the Sales Tax Appellate Tribunal in STA No.492/2006, who, in turn, remanded back with modification of the order of assessment dated 30.10.2004 on 28.02.2013 and as a result of which, the present impugned order is being passed by the respondent on 11.07.2014, as per his proceedings in TNGST No.150606/94-95. The petitioner had, however, preferred an appeal to the third respondent against the order of the first respondent, dated 11.07.2014, and the appeal thus submitted by the petitioner was taken on the file by the third respondent and numbered as A.P.No.65/2014 and the same was finally heard and orders reserved on 31.10.2016 and the order on the appeal is yet to be pronounced.

3. The learned counsel appearing for the petitioner, reiterating the above said facts, submitted that, since the statutory appeal preferred by the petitioner has already been heard and orders have been reserved, notice calling upon the petitioner to pay the arrears of tax is unsustainable.

4. This Court heard the submissions of Mr.S.Kanmani Annamalai, learned Special Government Pleader, who accepts notice on behalf of the respondents .

5. In view of the said submissions made by the learned counsel for both sides and in view of the fact that an appeal preferred by the petitioner in A.P.No.65/2014 was heard and orders have been reserved, on 31.10.2016, this Court is of the opinion that the impugned order has to be stayed and therefore, the impugned order, dated 25.10.2016, passed by the second respondent, will be kept in abeyance and it is open to the authority concerned to move the same, after the disposal of the appeal, in accordance with law. The writ petition is disposed of, accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

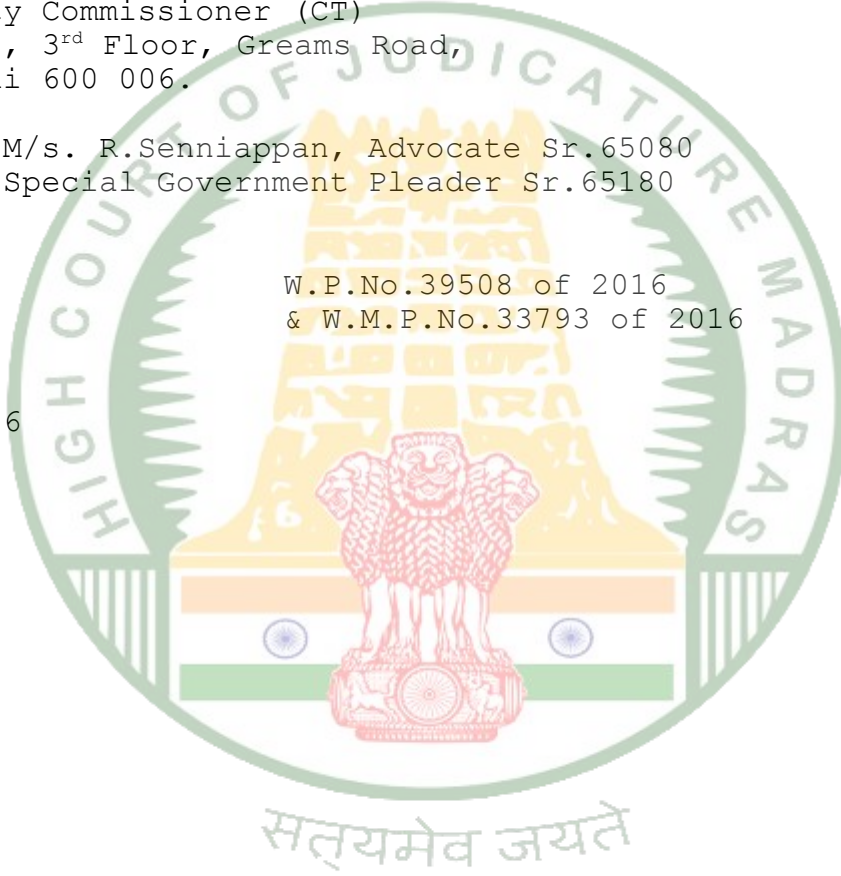
To

1. The Assistant Commissioner (CT),
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2. The Assistant Commissioner (CT),
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3. The Appellate Assistant Commissioner (CT),
(East), Office of the Appellate
Deputy Commissioner (CT)
(East), 3rd Floor, Greams Road,
Chennai 600 006.

- + 1 cc to M/s. R.Senniappan, Advocate Sr.65080
- + 1 cc to Special Government Pleader Sr.65180

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NR(CO)
EU 09.12.16



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