In the High Court of Judicature at Madras

Dated: 20.12.2016

Coram

The Honourable Mr.JUSTICE RAJIV SHAKDHER

Writ Petition Nos.43734 to 43737 of 2016
& WMP Nos.37540 to 37543 of 2016

M/s.Jagadamba Automobiles
rep. by its Proprietor
Mr.G.Durgaram
.... Petitioner in the above W.Ps

Vs.

The Assistant Commissioner (CT) (FAC)
Mettur Road Assessment Circle,
Erode .... Respondent in the above W.Ps

PETITION under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records connected with the impugned order passed by the respondent in TIN No.33523044490/2011-2012, 2012-2013, 2013-2014 and 2014-2015 dated 18.11.2016 on the file of the respondent and quash the same and consequently direct the respondent for fresh consideration with reference to the records produced by the petitioner after giving sufficient opportunities.

For Petitioner : Mr.R.Rengaramanujam

For Respondent : Mr.K.Venkatesh, G.A.

C O M M O N O R D E R

1. Issue notice. Mr.Venkatesh accepts notice on behalf of respondent.

1.1. With the consent of counsels for parties, the Writ Petitions are taken up for hearing and final disposal.

2. These are Writ Petitions, which pertain to assessment years 2011-12 to 2014-15. The petitioner is aggrieved by four (4) separate orders of even date, i.e., 18.11.2016, passed by the respondent.

3. The grievance of the petitioner is that pursuant to an inspection carried out by the Department, input tax credit (in short ITC), in each of the four (4) assessment years, was reversed, principally, on the ground that the vendors/sellers had not paid the tax. Furthermore, penalty, equivalent to 100% of the ITC reversed has also been imposed in each of the aforementioned assessment years.

3.1. The details of quantum of ITC reversed and the penalty levied is set out hereinafter in a tabular column.

S.No.	*Assessment Year*	*ITC Reversal Rs.*	*Penalty Rs.*
1	2011-2012	2,50,576.00	2,50,576.00
2	2012-2013	4,52,690.00	4,52,690.00
3	2013-2014	1,08,934.00	1,08,934.00
4	2014-2015	1,281.00	2,05,472.00

4. Counsel for the petitioner impugns the orders dated 18.11.2016 on two (2) grounds: first, that no opportunity was given before passing the impugned orders; and second, that the orders are contrary to the judgments of this Court passed in Sri Vinayaga Agencies V. Assistant Commissioner (CT), Vadapalani - I Assessment Circle, Chennai and another - [2013] 60 VST 283 (Mad) and the judgment of the Division Bench of this Court dated 01.09.2016 in a batch of Writ Appeals, the lead Writ Appeal being:W.A.No.946 of 2016.

5. Mr.Venkatesh, who appears for the respondent, says that a perusal of the order would show that an opportunity was given and as a matter of fact, the petitioner had filed its objections. In so far as the second ground raised by the petitioner is concerned, Mr.Venkatesh says that he cannot but submit that the aforementioned judgments cover the held for the period in issue.

5.1. It is Mr.Venkatesh's submission that, if, this Court were to direct the respondent to redo the assessment in line with the judgments of this Court, the needful would be done.

6. Accordingly, the impugned orders are set aside. The respondent is directed to redo the assessment in line with the ratio of the judgments of this Court, to which, reference has been made hereinabove.

7. The Writ Petitions are accordingly, disposed of. It is made clear that before redoing the assessments for the concerned years, the respondent will issue notice to the petitioner and give an opportunity of personal hearing, if, sought for by the petitioner.

8. Resultantly, connected Miscellaneous Petitions are closed. However, there will be no order as to costs.

sd/
Assistant Registrar(CCC)

/true copy/

Sub Assistant Registrar

sl

To

The Assistant Commissioner (CT) (FAC)
Mettur Road Assessment Circle,
Erode

+4 CC to Mr. R. Rengaramanujam, Advocate SR 74191 To 74194

+1 CC to The Spl. G.P.(Taxes) SR 74485

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