IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.02.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.No.7353 to 7355 of 2016 &

W.M.P.Nos.6560 to 6562 of 2016

M/s.Capricon Food Products India Pvt. Ltd.
Rep by its Director M. Murugesan
AH-216 (New No.AH-11) 2nd Street
8th Main Road Shanthi Colony
Anna Nagar
Chennai 40 .. Petitioner in all WPs

Vs

1 The Commercial Tax Officer
Amaindakarai Assessment Circle
Dowlath Tower
No. 59 Taylors Road
Chennai - 600 010

2 The Commercial Tax Officer, Grade I
Enforcement Chennai (Central)
PAPJM Building
Greams Road
Chennai - 600 006

3 The Deputy Commissioner (CT)
Enforcement (Central)
PAPJM Building
Greams Road
Chennai - 600 006
.. Respondents in all WPs

W.P.No.7353/2016 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, Mandamus to call for the impugned proceedings of the 1st respondent in TIN/33161121372/2012-2013 and quash the same impugned order dated 28.12.2015 as passed contrary to section 19(1) of the TNVAT Act read with Rule 10(2) of the TNVAT Rules contrary to the law laid down by the Honourable Madras High Court in the decisions in the case of M/s.Althaf Shoes (P) Ltd reported in 50

VST 179 in the case of M/s. Jinsasan Distributors reported in 59 VST 256 and in the case of M/s. Sri Vinayaga Agencies reported in 60 VST 283 and also contrary to the principles of natural justice and further direct the first respondent to pass a fresh assessment order after considering the objections dated 18.11.2015 along with the documentary evidences with an independent mind without being influenced by the proposals and direction sent by the second and third respondents in view of the law laid down by the Division Bench of the Madras High Court in the case of Madras Granites(P) Ltd Vs Commercial Tax Officer Arisipalayam Circle reported in 146 STC 642, State of Tamil Nadu vs. ANS Gupta & Sons reported in 38 VST 45 and also in the case of Amutha Metals Vs Commercial Tax Officer, Mannady (East) Assessment Circle reported in 9 VST 478 and also in the case of M/s.Bhuvanaeswari & Co vs. CTO & others in W.A.Nos. 521 and 522/2013.

W.P.No.7354/2016 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, Mandamus to call for the impugned proceedings of the 1st respondent in TIN/33161121372/2011-2012 and quash the same impugned order dated 28.12.2015 as passed contrary to section 19(1) of the TNVAT Act read with Rule 10(2) of the TNVAT Rules contrary to the law laid down by the Honourable Madras High Court in the decisions in the case of M/s.Althaf Shoes (P) Ltd reported in 50 VST 179 in the case of M/s. Jinsasan Distributors reported in 59 VST 256 and in the case of M/s. Sri Vinayaga Agencies reported in 60 VST 283 and also contrary to the principles of natural justice and further direct the first respondent to pass a fresh assessment order after considering the objections dated 17.11.2015 along with the documentary evidences with an independent mind without being influenced by the proposals and direction sent by the second and third respondents in view of the law laid down by the Division Bench of the Madras High Court in the case of Madras Granites(P) Ltd Vs Commercial Tax Officer Arisipalayam Circle reported in 146 STC 642, State of Tamil Nadu vs. ANS Gupta & Sons reported in 38 VST 45 and also in the case of Amutha Metals Vs Commercial Tax Officer, Mannady (East) Assessment Circle reported in 9 VST 478 and also in the case of M/s.Bhuvanaeswari & Co vs. CTO & others in W.A.Nos. 521 and 522/2013.

W.P.No.7355/2016 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, Mandamus to call for the impugned proceedings of the 1st respondent in TIN/33161121372/2013-2014 and quash the same impugned order dated 28.12.2015 as passed contrary to section 19(1) of the TNVAT Act read with Rule 10(2) of the TNVAT Rules contrary to the law laid down by the Honourable Madras High Court in the decisions in the case of M/s.Althaf Shoes (P) Ltd reported in 50

VST 179 in the case of M/s. Jinsasan Distributors reported in 59 VST 256 and in the case of M/s. Sri Vinayaga Agencies reported in 60 VST 283 and also contrary to the principles of natural justice and further direct the first respondent to pass a fresh assessment order after considering the objections dated 18.11.2015 along with the documentary evidences with an independent mind without being influenced by the proposals and direction sent by the second and third respondents in view of the law laid down by the Division Bench of the Madras High Court in the case of Madras Granites(P) Ltd Vs Commercial Tax Officer, Arisipalayam Circle reported in 146 STC 642, State of Tamil Nadu vs. ANS Gupta & Sons reported in 38 VST 45 and also in the case of Amutha Metals Vs Commercial Tax Officer, Mannady (East) Assessment Circle reported in 9 VST 478 and also in the case of M/s.Bhuvanaeswari & Co vs. CTO & others in W.A.Nos. 521 and 522/2013.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.Manoharan Sundaram
Addl. Govt. Pleader (T)

COMMON ORDER

The petitioner has filed the above writ petitions to issue a Writ of Certiorarified mandamus to call for the records in the proceedings of the first respondent in TIN/33161121372 for the assessment years 2011-12, 2012-13 and 2013-2014 and to quash the impugned orders dated 28.12.2015 as passed contrary to section 19(1) of the Tamil Nadu Value Added Tax Act, read with Rule 10(2) of the TNVAT Rules contrary to the law laid down by the Honourable Madras High Court in the decisions in the case of M/s.Althaf Shoes (P) Ltd reported in 50 VST 179 in the case of M/s. Jinsasan Distributors reported in 59 VST 256 and in the case of M/s. Sri Vinayaga Agencies reported in 60 VST 283 and also contrary to the principles of natural justice and further direct the first respondent to pass fresh assessment orders after considering the objections dated 17.11.2015 and 18.11.2015 along with the documentary evidences with an independent mind without being influenced by the proposals and direction sent by the second and third respondents.

2. At the outset itself, Mr.P.Rajkumar, learned counsel appearing for the petitioner pointed out that in the schedule of invoices dated 27.05.2015, M/s.Nilkamal Limited, issued invoices in favour of the petitioner mentioning the amount as Rs.4,68,245.53. However, in the impugned orders dated 28.12.2015, the first respondent had removed the dot in the said figure and mentioned the bill value as Rs.4,68,24,553. It is a clear error committed by the first respondent in mentioning

the figure as Rs.4,68,24,553. The learned counsel appearing for the petitioner submitted that though the petitioner has given their objections, the first respondent has not considered the same, however, relied on the report of the Enforcement Wing, passed the impugned orders.

3. Mr.Manoharan Sundaram learned Additional Government Pleader, takes notice for the respondents and submitted that the first respondent may be directed to redo the assessment after considering the petitioner's objections .

4. In these circumstances, the impugned orders passed by the first respondent dated 28.12.2015 are set aside and the matters are remitted back to the first respondent for fresh consideration and the first respondent is directed to decide the matter afresh, on merits and in accordance with law, after considering the objections raised by the petitioner and also giving an opportunity of personal hearing to the petitioner, without being influenced by the report of the Enforcement Wing.

With these observations, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Rj
To

1 The Commercial Tax Officer
Amaindakarai Assessment Circle
Dowlath Tower
No. 59 Taylors Road
Chennai - 600 010

2 The Commercial Tax Officer, Grade I
Enforcement Chennai (Central)
PAPJM Building
Greams Road
Chennai - 600 006

3 The Deputy Commissioner (CT)
Enforcement (Central)
PAPJM Building
Greams Road
Chennai - 600 006

+1 cc to the Special Government pleader(Taxes) sr.12853
+1 cc to Mr.P.Rajkumar Advocate sr.12493

W.P.Nos.7353 to 7355 of 2016 &
W.M.P.Nos. 6560 to 6562 of 2016

kk(co)
aa09/03/2016