IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2016

CORAM

The Hon'ble Mr.Justice R.Mahadevan

Writ Petition Nos.15265 to 15267 of 2004

and

W.P.M.P.Nos.18128 to 18130 of 2004

M/s.Pepsicola India Marketing (P) Ltd.,
90, Anna Salai, Wellington Plaza,
3rd Floor, Chennai - 600 002.
... Petitioner in all W.Ps.

Vs.

The Commercial Tax Officer,
Triplicane I Assessment Circle,
Chennai. ... Respondent in all W.Ps.

Prayer in W.P.No.15265 of 2004

Writ petition, filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records of the respondent in TNGST/0560540/97-98, dated 05.05.2004, on his file and to quash the same.

Prayer in W.P.No.15266 of 2004

Writ petition, filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records of the respondent in TNGST/0560540/2000-2001, dated 24.05.2004, on his file and to quash the same.

Prayer in W.P.No.15267 of 2004

Writ petition, filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records of the respondent in TNGST/0560540/98-99, dated 05.05.2004, on his file and to quash the same.

For Petitioner :Mr.B.Raveendran
for M/s.Chandran Karuppiah Associates

For Respondent :Mr.S.Manoharan,
Additional Government Pleader

COMMON O R D E R

As the issue involved in these Writ Petitions and the parties are one and the same, these Writ Petitions are taken up together and disposed of vide this common order.

2. The learned counsel appearing for the petitioner has submitted that the issue involved in these Writ Petitions is covered by the judgment of the Hon'ble Supreme Court, in the case of [E.I.D.Parry (India) Ltd. Vs. Assistant Commissioner of Commercial Taxes, Chennai and another) reported in (2005) 141 STC 12 (SC), wherein, the Hon'ble Supreme Court had dealt with the applicability of Sections 13 (2), 24 (1) (3) and Rule 18 (3) (4) of Tamil Nadu General Sales Tax Rules, 1959, relating to fixation of Sugarcane Control Price and levy of tax. The learned counsel also produced the judgment for perusal of this Court.

3. Heard both sides and perused the materials available on records as well as the authority cited by the learned counsel appearing for the petitioner.

4. The judgment relied upon by the learned counsel appearing for the petitioner is not applicable to the facts of the present cases, as the issue involved herein is related to belated payment of taxes and levy of penal interest, which is different from that of the issue covered in the aforesaid judgment. However, it has been pointed out by the learned Additional Government Pleader for the respondent that the petitioner has got effective alternative remedy by filing a Revision before the Revisional Authority, viz., the Joint Commissioner.

5. Thus, taking note of the effective alternative remedy available with the petitioner, this Court, while declining to grant the relief sought for, is simultaneously granting liberty to the petitioner to approach the Revisional Authority/Joint Commissioner, by filing a Revision Petition within a period of two weeks from the date of receipt of a copy of this order. If such revision petition is filed within the time, as stipulated by this Court, the Revisional Authority/Joint Commissioner, shall entertain the same, without rejecting it, on the ground of

limitation and pass necessary orders within six weeks on merits and in accordance with law after affording due opportunity of hearing to the petitioner.

6. The Writ Petitions are disposed of, accordingly. No costs. Consequently, connected M.Ps. are closed.

sd/-
Assistant Registrar(CCC)

/TRUE COPY/

Sub-Assistant Registrar

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To

The Commercial Tax Officer,
Triplicane I Assessment Circle,
Chennai.

+1 CC to Special Govt.Pleader(Taxes). SR.NO. 1241

Writ Petition Nos.15265
to 15267 of 2004

CO-MSM
JD 25/01/2016