BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.06.2016
CORAM
THE HONOURABLE MR.JUSTICE T.RAJA
W.P(MD).Nos.11332 to 11339 of 2016
and
W.M.P.(MD).Nos.8688 to 8695 of 2016

Tvl.Sri Rama Vilas Agro Foods,
Rep.by its Proprietor,
R.S.Vinoth Kumar,
No.3A, Tamilar Mettu Street,
Thiruvaiyaru - 613 304. ... PETITIONER IN WP(MD)Nos.11332 TO 11335/16
& WMP(MD)NOS.8688 TO 8691/2016

R.Swaminathan
Proprietor of Oil Traders,
No.5, South Main Street,
Thiruvaiyaru - 613 304. ...PETITIONER IN WP(MD)Nos.11336 TO 11339/16
& WMP(MD)NOS.8692 TO 8695/2016

- Vs. -

1.The Appellate Deputy Commissioner (CT) (FAC),
Commercial Taxes Buildings,
Sachindhanandha Moopanar Road,
Thanjavur-1.

2.The Commercial Tax Officer,
Thanjavur I Assessment Circle,
Commercial Taxes Buildings,
Sachindhanandha Moopanar Road,
Thanjavur-1. ... Respondents in all the petitions

Prayer in WP(MD). 11332/ 2016 :

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 first respondent in her proceedings in S.P.79/2016 in VAT No.54/2016 dated 24.05.2016 and quash the same.

Prayer in WP(MD). 11333/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records of the First Respondent in her proceedings in S.P.84/2016 in VAT No.55/2016 dated 24/05/2016 and quash the same as illegal.

Prayer in WP(MD). 11334/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari Calling for the records of the First Respondent in her proceedings in S.P.85/2016 in VAT No.56/2016 dated 24/05/2016 and quash the same as illegal.

Prayer in WP(MD). 11335/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records of the First Respondent in her proceedings in S.P.78/2016 in VAT No.57/2016 dated 24/05/2016 and quash the same as illegal.

Prayer in WP(MD). 11336/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records of the first respondent in her proceedings in S.P.74/2016 in VAT No.50/2016 dated 24/05/2016 and quash the same as illegal.

Prayer in WP(MD). 11337/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records of the first respondent in her proceedings in S.P.81/2016 in VAT No.51/2016 dated 24/05/2016 and quash the same as illegal.

Prayer in WP(MD). 11338/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records of the first respondent in her proceedings in S.P.83/2016 in VAT No.52/2016 dated 24/05/2016 and quash the same as illegal.

Prayer in WP(MD). 11339/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records of the first respondent in her proceedings in S.P.80/2016 in VAT No.53/2016 dated 24/05/2016 and quash the same as illegal.

For petitioner
(in all petitions) : M/s.P.R.Kumar

For respondents : Mr.R.Karthikeyan
(in all petitions) Additional Government Pleader

COMMON ORDER

Since the issue involved in all these Writ Petitions are one and the same, they are all taken up together and disposed of, by this common order.

2. Challenging the conditional order passed by the first respondent, dated 24.05.2016, the petitioners-firm is before this Court.

3. Learned counsel for the petitioners submitted that the second respondent has passed the revised assessment order based on the inspection conducted on 18.06.2015 and determined the amount by levying penalty under Section 27(3) of the TNVAT Act. Against the same, an appeal was filed before the first respondent by remitting 25% of the disputed tax. Assailing the impugned orders, he submitted that the orders impugned in all these Writ Petitions are bad in law for the simple reason that the respondents without going ahead with the main matter, they are taking coercive action against the petitioners-firm to collected the disputed tax amount. It is to be noted that the matter

was twice adjourned at the request of the respondents. Apprehending that there may be coercive action, the petitioners-firm moved a stay application before the first respondent, whereas, the first respondent has imposed onerous conditions, without disposing of the main case. Hence, the petitioners-firm are before this Court for quashing the impugned orders of the first respondent.

4. The learned Additional Government Pleader was put on notice. He submitted that the conditional order imposed by the first respondent has not been complied with by the petitioner-firm. Secondly, when the petitioners-firm appeal is pending before the first respondent, no parallel proceedings can be taken place or else the appeal may become infructuous.

5. However, I find some force in the submission of the learned Counsel for the petitioner-firm for the reason that all along the petitioner-firm has been fighting in regard to the correctness of the orders issued by the second respondent. Further, a perusal of the record would show that on the one hand in the main appeal pending before the first respondent, the respondents seek time and on the other hand, the second respondent is taking coercive steps to collect the disputed tax amount. Since the petitioners-firm has pleaded that they have got a better case, if the main appeals itself are disposed of, rather than deciding the stay applications, the first respondent is directed to dispose of the appeals of the petitioners-firm pending before the first respondent, on merits and in accordance with law, within a period of four months from the date of receipt of a copy of this order. In the mean while, the petitioner is directed to comply with the conditional order within a period of two weeks from today. Needless to mention that either side shall not seek any adjournment on any grounds, whatsoever.

6. With the above direction, all the Writ Petitions stand disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/
Assistant Registrar(AS)

/TRUE COPY/

Sub Assistant Registrar

To
1.The Appellate Deputy Commissioner (CT) (FAC),
Commercial Taxes Buildings, Sachindhanandha Moopanar Road,
Thanjavur-1.
2.The Commercial Tax Officer,
Thanjavur I Assessment Circle,Commercial Taxes Buildings,
Sachindhanandha Moopanar Road,Thanjavur-1.
+2ccs to M/S.D.Venkatesh, Advocate in SR.No.33342 & 33343
+1cc to Special Govt.Pleader,SR.Nos.33717

W.P(MD).Nos.11332 to 11339 of 2016
27.06.2016

ssm

PA/GSV-PM/SAR I/29.06.2016/3P/6C(IT)