IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.6277 to 6279 of 2009 & M.P.Nos.1, 1 & 1 of 2009

Tvl.Chitra Electricals,
660, Trichy Road,
Singanallur, Coimbatore-5. ... Petitioner in all W.Ps.

Vs.

The Assistant Commissioner (CT),
Singanallur Assessment Circle,
Coimbatore-18. ... Respondent in all W.Ps.

Prayer in W.P.No.6277 of 2009 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records in TNGST/1823790/2004-05 on the file of the respondent and quash its order dated 21.11.2008 and direct the respondent not to take coersive actions for the assessment year 2004-05 under the TNGST Act, 1959.

Prayer in W.P.No.6278 of 2009 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records in TNGST/1823791/2004-05 on the file of the respondent and quash its order dated 21.11.2008 and direct the respondent not to take coersive actions for the assessment year 2004-05 under the TNGST Act, 1959.

Prayer in W.P.No.6279 of 2009 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records in TNGST/1823791/2005-06 on the file of the respondent and quash its order dated 21.11.2008 and direct the respondent not to take coersive actions for the assessment year 2005-06 under the TNGST Act, 1959.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Mr.S.Kanmani Annamalai, Additional Government Pleader

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ORDER

Heard Mr.V.Sundareswaran, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent.

2.The petitioner has filed these writ petitions challenging the revised assessment orders for the assessment years 2004-05 & 2005-06, under the provisions of the Tamil Nadu General Sales Tax Act, 1959, dated 21.11.2008. The petitioner is challenging the findings recorded by the assessing officer, with regard to levy of tax on the ground that the purchase list was not filed to prove the earlier taxable event. According to the petitioner, the relevant documents along with the RC numbers of the suppliers were not readily available with the petitioner and after taking efforts, they were able to secure the details and submitted the same before the assessing officer along with their representation dated 23.01.2009. However, by then, the assessment orders had been passed.

3.The petitioner's case is that if one more opportunity is granted to them, they will be in a position to establish that the purchases are genuine and tax has been paid. When the writ petition was admitted on 28.04.2009, an order of interim stay was granted on condition that the petitioner pays 25% of the disputed tax. This condition has been complied with by the petitioner. Thus, taking note of these facts and submissions that the petitioner has sufficient records to establish the genuinity of the transaction, this Court is of the view that one more opportunity can be granted to the petitioner.



4.Accordingly, these writ petitions are allowed and the impugned orders of assessment, in so far as they relate to assessing the petitioner's turnover under Section 7A of the TNGST Act and the levy of penalty alone are set aside and the matters are remanded to the respondent for fresh consideration. The respondent is directed to afford an opportunity of personal hearing, peruse the documents/records produced by the petitioner and re-do the assessment under the said provisions by passing a speaking order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

abr
To

The Assistant Commissioner (CT),
Singanallur Assessment Circle,
Coimbatore-18.

+1 cc to Special Govt Pleader sr 78361

W.P.Nos.6277 to 6279 of 2009

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