IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2017

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THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.Nos.2537 to 2542 of 2017
And
W.M.P.Nos.2496 to 2501 of 2017

M/s.Visoka Engineering Pvt. Ltd.,
Rep. by its Director ... Petitioner in W.P.2537/2017

Vs.

1 The Joint Commissioner (CT)
(Enforcement),
No.1, Greams Road
Chennai – 600 006.

2 The Commercial Tax Officer
Group-1, Enforcement (South)
No.1, Greams Road
Chennai – 600 006.

3 The Assistant Commissioner(CT)
Sriperumbudur Assessment Circle
Varadarajapuram – 602 103.
... Respondents in W.P.2537/2017

Prayer in W.P.No.2537 of 2017:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the files of the 3rd respondent herein in TIN : No. 33121661878/2008-09 dated 28.10.2016, quashing the same.

For Petitioner : Mr.Rajnish Pathiyil
For Respondents : Mr.S.Kanmani Annamalai
Additional Government Pleader

C O M M O N   O R D E R

1.Issue Notice. Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepts notice on behalf of the respondents. With the consent of the learned counsels for parties, the captioned writ petitions are taken up for hearing and final disposal.

2.These writ petitions concern assessment years 2008-09 to 2013-14. The petitioner is aggrieved by the fact that in each of these assessment years, the respondent has imposed tax without adhering to the judgments rendered by this Court.

3.The grievance of the petitioner emanates from the direction issued by the respondent to reverse ITC for purchases made from dealers whose registration certificate was cancelled prior to the date of purchase.

4.The petitioner is also aggrieved by the fact that the respondent has proceeded to add back to the taxable turnover amounts on account of mis-match in information, which is available on the website of the Department and that, which is, reflected in the monthly returns of the petitioner.

5.Insofar as the first aspect is concerned, the issue is covered by the judgment of the Division Bench of this Court rendered in ***W.A.Nos.946 of 2016 etc. batch***, dated 01.09.2016, titled: ***The Assistant Commissioner (CT) Vs. M/s.Bhairav Trading Company.***

6.As regards the second aspect, it is covered by the order dated 05.01.2017, passed in ***W.P.No.228 of 2017***, titled: ***Tvl.Murugan Garments Vs. The Assistant Commissioner (CT) (FAC)***.

7.To be noted, the respondents have imposed tax on the petitioner on account of these two aspects as is evident from the table below:

Sl. No.	***Assessment Year***	***ITC Reversal for Purchases made from RC Cancelled Dealers (in Rs.)***	***Revenue Mismatch (in Rs.)***	***Tax Demanded (in Rs.)***
1	2008-09	1296	202483	246764
2	2009-10	-	140525	167410
3	2010-11	209	170222	188595
4	2011-12	-	9267	28418
5	2012-13	-	51773	105435
6	2013-14	-	613666	970522

8.Mr.Annamalai, who appears for the respondents says, he cannot, but, submit that both aspects are covered by the judgments of this Court referred to above.

9.Accordingly, the impugned orders of even date i.e., 28.10.2016 are set aside. The respondents will redo the assessment, after affording opportunity of personal hearing to the petitioner. The respondents will also supply all material particulars and information to the petitioner, before passing a fresh order.

10.The writ petitions are disposed of, in terms of the aforementioned directions. Consequently, the connected pending applications are also closed. However, there shall be no order as to costs.

02.02.2017

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Index: Yes/ No
Internet: Yes/ No

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RAJIV SHAKDHER,J.
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