IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP Nos.26898 to 26902 of 2017 &
WMP Nos.28670 to 28674 of 2017

Tvl.Saradhambika Paper & Board Mills (P) Ltd.,
Rep. by its Executive Director, S.Adhi Shankar,
Sellakumarapalayam, Gobichettipalayam-TK,
Erode District. ... Petitioner in all W.Ps.

Vs.

The State Tax Officer,
Office of the State Tax Officer,
Gobichettipalayam,
Erode District. ... Respondent in all W.Ps.

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, to call for the records on the files of the respondent in TIN.33062962390/2014-15, 2015-16, 2013-14, 2011-12, 2012-13 respectively, dated 13.09.2017 and quash the same and further direct the respondent to inspect and examine the manufacturing process before assessment as directed by this Court in Judgment reported in (2015) 81 VST 389 (Mad) (Interfit Techno Products Ltd., Vs. Principal Secretary/Commissioner of Commercial Taxes, Ezhilagam, Chepauk, Chennai and another).

For Petitioner : Mr.R.Senniappan

For Respondent : Mrs.Narmadha Sampath,
Special Government Pleader

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C O M M O N O R D E R

Heard Mr.R.Senniappan, learned counsel for the petitioner and Mrs.Narmadha Sampath, learned Special Government Pleader accepting notice on behalf of the respondent. With consent on either side, these writ petitions are taken up for final disposal.

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2.The petitioner has filed these writ petitions challenging the notices issued by the respondent dated 13.09.2017, proposing to revise the total taxable turnover for the assessment years 2011-12 to 2015-16. The allegation against the petitioner is that they being a manufacturer of paper boards, they have not made reversal of Input Tax Credit for the wastage/manufacturing loss under Section 19(9)(iii) of the VAT Act. Therefore, the respondent proposed the percentage of loss at different rates for each of the assessment year. The petitioner's contention is that the assumption of the respondent that there is manufacturing loss on either 5% or 9.07% or 10.36% or 11.67% is absolutely without any basis and there is no such loss. However, the impugned proceedings only being notices proposing reassessment, the petitioner could file their objections clearly stating as to whether there is any manufacturing loss or not and if there is any manufacturing loss according to the petitioner, the percentage of the loss as assessed by them should be mentioned. It is after such objection is filed, the respondent will inspect the petitioner's factory, examine the manufacturing process, acquaint herself with the same and then, determine the actual manufacturing loss. Therefore, at this juncture, the impugned notices cannot be set aside.

3.In the result, these writ petitions are disposed of by directing the petitioner to file their objections to the impugned notices dated 13.09.2017, within a period of 15 days from the date of receipt of a copy of this order. After which, the respondent shall visit the petitioner's factory after advance notice to the petitioner, thoroughly study the manufacturing process and determine the production loss and afford an opportunity of personal hearing to the petitioner. Further objections if any, to hear the petitioner in person and complete the assessment in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

bsm/abr

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To

The State Tax Officer,
Office of the State Tax Officer,
Gobichettipalayam, Erode District.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.74020
+1cc to the Government Pleader, S.R.No.74130

W.P.Nos.26898 to 26902 of 2017

CS/01/11/17

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