IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.17243 to 17246 of 2017
&
W.M.Nos.18740 to 18746 of 2017

Saravana Global Energy Limited,
Rep. by its Manager-Marketing, Mr.C.Madhavan,
Virudhachalam Road, P.N.Kuppam,
Kurinjipadi Post - 607 302. ... Petitioner in all Wps

Vs.

1. The Assistant Commissioner of Commercial Taxes,
   Cuddalore Taluk Assessment Circle,
   Sub-Jail Road, Manjakuppam,
   Cuddalore - 1.

2. The Appellate Deputy Commissioner of
   Commercial Taxes, Cuddalore District,
   Sub-Jail Road, manjakuppam,
   Cuddalore - 1. ... Respondents in all WPs

Prayer in W.P.No.17243 of 2017 : Petition filed under Article 226 of the Constitution of India to issue a WRIT OF CERTIORARI to call for the records pertaining to the impugned order dated 24.06.2016 passed by the first respondent with regard to CST No.383191 for the year 2013-2014 and consequent demands in Form 3, Form RR dated 25.07.2016 and notice in Rc.A3/1176/2016 dated 20.04.2017 and quash the same.

Prayer in W.P.No.17244 of 2017 : Petition filed under Article 226 of the Constitution of India to issue a WRIT OF CERTIORARI to call for the records pertaining to the impugned order dated 24.06.2016 passed by the first respondent with regard to TIN No.33891561787/2013-2014 and consequent demands in Form O, Form RR dated 25.07.2017 and notice in Rc.A3/1176/2016 dated 20.04.2017 and quash the same.

Prayer in W.P.No.17245 of 2017 : Petition filed under Article 226 of the Constitution of India to issue a WRIT OF CERTIORARI to call for the records pertaining to the impugned order dated 24.06.2016 passed by the first respondent with regard to TIN

No.33891561787/2014-2015 and consequent demands in Form O, Form RR dated 25.07.2017 and notice in Rc.A3/1176/2016 dated 20.04.2017 and quash the same.

Prayer in W.P.No.17246 of 2017 : Petition filed under Article 226 of the Constitution of India to issue a WRIT OF CERTIORARI to call for the records pertaining to the impugned order dated 24.06.2016 passed by the first respondent with regard to TIN No.33891561787/2015-2016 and consequent demands in Form O, Form RR dated 25.07.2017 and notice in Rc.A3/1176/2016 dated 20.04.2017 and quash the same.

For Petitioner : Mr.E.Sathish Kumar
in all W.Ps.

For Respondents : Mr.K.Venkatesh,
in all W.Ps. Government Advocate

C O M M O N O R D E R

Heard Mr.E.Sathish Kumar, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate accepting notice on behalf of the respondents. With the consent on either side, the writ petitions themselves are taken up for final disposal.

2.The petitioner is a registered dealer on the file of the first respondent under the provisions of the Central Sales Tax Act, 1956 (herein after referred as the "CST Act") and Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act). In these writ petitions, the petitioner challenges a show cause notice issued to the petitioner pursuant to an inspection conducted by the Enforcement Wing Officials by proposing to determine the turn over under Section 27 (1) of the TNVAT Act read with Section 9 (2) of the CST Act for the relevant assessment years 2013-2014, 2014-2015 and 2015-2016, under the TNVAT Act and for the year 2013-2014 under the CST Act. The impugned notice was issued on 24.06.2016, giving the petitioner 15 days time to submit their objections. Admittedly, the petitioner has not submitted their objections nor approached the Assessing Officer seeking extension of time. Only after receipt of the notice dated 20.04.2017, directing the petitioner to pay the arrears of tax and penalty within 48 hours, failing which, action would be taken for attachment of the property recovering through Court proceedings and attachment of bank account, the petitioner has suddenly woken up and approached this Court.

3.Learned counsel for the petitioner submitted that due to various business contingencies, the petitioner could not approach the authorities in time, nevertheless they had paid 25%

of the disputed Tax viz., Rs.7,50,000/- on 10.03.2017 and submits that one more opportunity may be granted to the petitioner to respond to the impugned notice dated 24.06.2016.

4.Heard Mr.K.Venkatesh, learned Government Advocate on the above submission.

5.Considering the fact that the petitioner has paid 25% of the disputed Tax and the Department was also not vigilant in immediately proceeding with the matter after issuance of the notice dated 24.06.2016, and they have initiated action only on 20.04.2017, this Court is inclined to grant an opportunity to the petitioner subject to certain condition. Accordingly, the petitioner is directed to pay a further sum of Rs.5,00,000/- (Rupees Five Lakhs only) towards the disputed tax within a period of two weeks from the date of receipt of a copy of this order. If the petitioner complies with the said order, then the petitioner would be entitled to submit their objections to the impugned notice dated 24.06.2016 within a period of seven days thereafter. On receipt of the objections, the respondent shall afford an opportunity of personal hearing and complete the assessment in accordance with law. If the petitioner complies with the above condition and pays a sum of Rs.5,00,000/- within the time permitted, the demand of the remaining amount of tax and penalty shall be kept in abeyance and await the final orders to be passed. In the event of default in complying with the condition, the benefit of this order will not enure to the petitioner and the writ petitions would stand automatically dismissed leaving it open to the authorities to proceed in accordance with law.

6.With the above direction, the writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

abr

To

1. The Assistant Commissioner of Commercial Taxes,
   Cuddalore Taluk Assessment Circle,
   Sub-Jail Road, Manjakuppam,
   Cuddalore - 1.

2. The Appellate Deputy Commissioner of
Commercial Taxes, Cuddalore District,
Sub-Jail Road, manjakuppam,
Cuddalore - 1.

+1cc to Mr.E.Sathish Kumar, Advocate, S.R.No.47493
+1cc to the Special Government Pleader(Taxes), S.R.No.47553

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&
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SVI(CO)
CA(25/07/2017)