IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.34338 to 34340 of 2007 and M.P.Nos.1, 1 & 1 of 2007

Pepsico India Holdings Pvt. Ltd.,
3rd Floor, Wellington Plaza,
90, Anna Salai, Chennai-600 002. ... Petitioner in all W.Ps.

Vs.

1.Commissioner of Commercial Taxes,
Tamil Nadu,
Ezhilagam, Chepauk, Chennai-600 005.

2.Assistant Commissioner,
Fast Track Assessment Circle-I,
Office of the Assistant Commissioner (CT),
PAPJM Building, Greams Road,
Chennai-600 006. ... Respondents in all W.Ps.

Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records of the second respondent containing the impugned notice dated 24.10.2007 bearing Ref TIN:33030560541/2006-07 issued by the second respondent, quash the same as illegal as without jurisdiction.

For Petitioner : Mr.V.P.Raman

For Respondents : Mr.K.Venkatesh, Government Advocate

C O M M O N O R D E R

Heard Mr.V.P.Raman, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate for the respondents.

2.These writ petitions have been filed challenging a notice dated 24.10.2007, issued by the second respondent proposing to levy service tax at 12.5% on the brand of 'Lays' (branded potato chips). The reason for such proposal is on the ground of a clarification issued by the Commissioner of Commercial Taxes, dated 29.03.2007. The petitioner filed a separate writ petition viz., W.P.No.23824 of 2007 challenging the clarification, which was dismissed by order dated 09.07.2007. As against the order of dismissal, the petitioner filed an appeal in W.A.No.551 of 2009, which was allowed by judgment dated 10.11.2009, and the clarification was quashed. Since the Hon'ble Division Bench has quashed the clarification, the respondent cannot revise the assessment by relying upon the said clarification.

3.These writ petitions are allowed accordingly and the impugned notice is quashed. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

abr

To

1.The Commissioner of Commercial Taxes,
Tamil Nadu,
Ezhilagam, Chepauk, Chennai-600 005.

2.The Assistant Commissioner,
Fast Track Assessment Circle-I,
Office of the Assistant Commissioner (CT),
PAPJM Building, Greams Road,
Chennai-600 006.

+1 CC to Mr.V.P.Raman, Advocate sr 82950.
+1 CC to Govt. Pleader sr 88337.

W.P.Nos.34338 to 34340 of 2007

KJI(CO)
SP(02/01/2018)