IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.44987 to 44989 of 2006 & M.P.Nos.1,1 & 1 of 2006

Tvl.Harinarayana Chabil Chand,
rep. by its Partner, Dinesh Chandra Agarwal,
39, Park Road, Erode. ... Petitioner in all W.Ps.

Vs.

The Commercial Tax Officer (FAC),
Park Road Circle, Erode. ... Respondents in all W.Ps.

Prayer in W.P.No.44987 of 2006 : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari, to call for the records of the respondent in his notice in Asst.No.TNGST 2860040/01-02 dated 05.10.2006 and quash the same as illegal.

Prayer in W.P.No.44988 of 2006 : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari, to call for the records of the respondent in his notice in Asst.No.2860040/2003-04 dated 12.10.2006 and quash the same as illegal.

Prayer in W.P.No.44989 of 2006 : Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari, to call for the records of the respondent in his notice in Asst.No.2860040/2004-05 dated 12.10.2006 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan

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

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C O M M O N O R D E R

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

2. The petitioner in these Writ Petitions challenge the notices issued by the respondent dated 05.10.2006 & 12.10.2006 proposing to revise the turnover. On similar facts, several other dealers challenged the assessment orders and the matter was heard by the Hon'ble Division Bench in the case of Hotel Shri Kannan Vs State of Tamil Nadu and another [2007]8 VST 97 [Mad], wherever assessment orders were passed, they were set aside and the dealers were directed to submit their objections to the impugned show cause notice and other directions were also issued by the Hon'ble Division Bench. The operative portion of the judgment reads as follows :

> "26. Since the dealers, in these batch of cases, except a few, who, unfortunately, failed to place reliance on the Circular D.Dis.Acts Cell II/75893/99, dated December 24, 1999, as amended by the clarification No.91/2000, D.Dis.Acts Cell II/52300/2000, dated October 4, 2000, approached this Court challenging the show cause notices, taking into consideration the scope of section 7A of the Tamil Nadu General Sales Tax Act, 1959, suffice it to pass the following order:
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> 1.The assessment orders passed without reference to the Circular D.Dis.Acts Cell II/75893/99, dated December 24, 1999, as amended by the clarification No.91/2000, D.Dis.Acts Cell II/52300/2000, dated October 4, 2000 stand set aside;
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> 2. All the dealers are permitted to submit their objections to the impugned show cause notices, supported with materials they propose to rely upon, of course placing reliance on Circular D.Dis.Acts Cell II/75893/99, dated December 24, 1999, as amended by the clarification No.91/2000, D.Dis.Acts Cell II/52300/2000, dated October 4, 2000 within thirty days from the date of receipt of copy of this order and the same shall be forwarded by the respective assessing authority to the Commissioner of Commercial Taxes; and
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> 3. To direct the Government to authorise the Commissioner of Commercial Taxes to decide :
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> a] as to the applicability of the Circular D.Dis.Acts Cell II/75893/99, dated December 24, 1999, as amended by the clarification No.91/2000, D.Dis.Acts Cell II/52300/2000, dated October 4, 2000 to the case of the dealers, depending upon the facts of each case; and

b] to pass such other further orders, as the case may be, in accordance with law.”

3. In these Writ Petitions, the petitioner challenges only the show cause notice and therefore, they are directed to submit their objections to the impugned show cause notices, supported with materials they propose to rely upon, of course placing reliance on Circular D.Dis.Acts Cell II/75893/99, dated December 24, 1999, as amended by the clarification No.91/2000, D.Dis.Acts Cell II/52300/2000, dated October 4, 2000 within 30 days from the date of receipt of copy of this order and the same shall be forwarded by the respective assessing authority to the Commissioner of Commercial Taxes.

The Writ Petitions are disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

abr

To

The Commercial Tax Officer (FAC),
Park Road Circle, Erode.

+ 1 cc to Mr.S.Ramanathan, Advocate,SR.71958

+ 1 cc to The Govt.Pleader(Taxes) SR.72073

W.P.Nos.44987 to 44989 of 2006

NR 22/11/2017