IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.07.2017

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition Nos.23007 and 23008 of 2004
and
W.P.M.P.Nos.27833 and 27834 of 2004

M/s.Laljee Godhoo & Co.
rep. by Power of Attorney Holder
Naradas H.Shah
No.9, Narayana Mudali Street,
Chennai - 600 079. ...Petitioner in both W.Ps.

Vs.

The Commercial Tax Officer,
Sowcarpet I Assessment Circle,
Chennai. ...Respondent in both W.Ps.

Common Prayer :-

Writ Petitions, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the respondent, in TNGST - 0220012/2001-02 and 2002-03 respectively, dated 25.06.2004, and to quash the proceedings, dated 25.06.2004, as contrary to law, further, to direct the respondent not to disallow the concessional levy of tax on purchase of packing materials against Form XVII Declarations.

For Petitioner in both W.Ps. : Mrs. C. Rekha Kumari
For Respondent in both W.Ps. : Mr.K.Venkatesh
Government Advocate

C O M M O NO R D E R

Heard Mrs. C. Rekha Kumari, the learned counsel appearing for the petitioner, and Mr.K.Venkatesh, the learned Government Advocate for the respondent.

2. The petitioner-Company, which is a registered dealer, on the file of the respondent, under the provisions of the Tamil Nadu General Sales Tax Act, 1959 (hereinafter, referred to as 'TNGST' Act) has challenged the pre-revision notices, dated 25.06.2004, for the assessment years 2001-02 and 2002-03.

3. Today, when these Writ Petitions were taken up for hearing, it is submitted by the learned counsel appearing for the petitioner that, very same issue came up for consideration

before this Court, in the Writ Petitions filed by the very same assessee, viz., in W.P.Nos.8760 and 8761 of 2005, and those Writ Petitions were disposed of, by a common order, dated 20.07.2016, with certain directions. The learned counsel for the petitioner has also produced a copy of the said order dated 20.07.2016, for reference of this Court, and prays that, similar direction may be issued in the present Writ Petitions as well.

4. On a perusal of the order, dated 20.07.2016, it is seen that the issue involved and the relief sought for in the present Writ Petitions are similar as to that of the issue considered in W.P.Nos.8760 and 8761 of 2005 and the only distinction is that i) in W.P.Nos.8760 and 8761 of 2005, revision notices were issued on the ground that the product 'Asafoetida' were not manufactured, and they were purchased in bulk and crushed into pieces and sold out and such activity does fall under the category of manufacturing activity, and in the present Writ Petitions, the revision notices have been issued, stating that, the petitioner/dealers have not manufactured the plastic bottles and they purchased the same for packing Asafoetida, which is against Form XVII declarations, and this Court, disposed of Writ Petition Nos.8760 and 8761 of 2005, by holding that, since the impugned proceedings were only a pre-revision notices, it was well open to the petitioner to raise objections, based on which, the respondent was directed to act in accordance with law.

5. In the light of the above, these Writ Petitions can very well be disposed of, issuing similar direction, as that were issued in W.P.Nos.8760 and 8761 of 2005. Accordingly, the present Writ Petitions are disposed of, by directing the petitioner to raise all objections before the Assessing Officer. The petitioner shall explain the nature of activity done by them and produce all the materials, such as, packing materials, bottles, etc., and demonstrate before the Assessing Officer as to whether the activity done by them is a manufacturing activity or not, based on which, the respondent, shall afford an opportunity of personal hearing, and proceed to frame the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sd

To

The Commercial Tax Officer,
Sowcarpet I Assessment Circle,
Chennai.

+1 cc to Ms.C.Rekhakumari Advocate sr 51653
+1 cc to Special Government Pleader(Taxes) sr50095

Writ Petition Nos.23007
and 23008 of 2004

gj(co)
aa29/08/2017