IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.15874 to 15876 of 2004

Sree Vanni Vinayaga Textile Mills (P) Ltd.,
Rep. By its Managing Director
A.Selvaraj,
Ayaneri - 628 502. Kovilpatti (Via).
... Petitioner in all WPs

Vs.

1.State of Tamil Nadu,
Rep. By its Secretary to Government,
Industries Department,
Fort St. George, Chennai.

2.The Manager,
District Industries Centre,
Tirunelveli.

3.Commercial Tax Officer,
Sankarankovil.

4.The Managing Director,
State Industries Promotion Corporation
of Tamil Nadu Limited,
No.19-A Rukumani Lakshmipathy Road,
Egmore, Chennai - 8.

5.Assistant Commissioner (CT),
Tirunelveli. ... Respondents in all WPs

COMMON PRAYER: Writ Petitions filed under Article 226 of Constitution of India praying to issue Writ of certiorari to call for the records relating to the impugned orders dated 06.05.2004, 14.05.2004 and 14.05.2004 issued by the third respondent in his TNGST Nos.5661337/98-1999, 5661337/99-2000 and 5661337/2000-01 respectively, and quash the same.

For Petitioner : Mr.Md.Ibrahim Ali

For Respondents : Mr.S.Kanamani Annamalai, AGP

COMMON ORDER

Heard Mr.M.Md.Ibrahim Ali, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondents.

2. The petitioner has filed these writ petitions challenging the orders of assessment passed by the third respondent for the assessment years 1998-1999, 1999-2000 and 2000-2001 under the provisions of the TNGST Act, 1959.

3. The only ground on which the impugned assessment orders have been challenged is by contending that after the disposal of the earlier writ petition in W.P.No.35800 of 2002 filed by the petitioner by order dated 25.09.2002, the respondent did not issue any notice with regard to the claim for interest under Section 24(3) of the Act and did not mention about the volume of production and therefore, the demand is not sustainable.

4. The respondent Assessing Officer has filed a counter affidavit, from which, it is seen that the petitioner was issued with a notice proposing to levy penal interest of Rs.3,29,611/- under Section 24(3) of the TNGST Act, 1959, for the belated payment of tax of Rs.3,12,994/-. On receipt of the said notice, the petitioner has filed a writ petition before this Court in W.P.Nos.9890 to 9892 of 2004, which were dismissed by order dated 16.04.2004 directing the petitioner to file objections. Thereupon, the petitioner has filed their objections which were considered and the impugned assessment orders have been passed.

5. This Court is of the view that there was no violation of the principles of natural justice and liberty granted by the Hon'ble Division Bench of this Court in W.P.No.35800 of 2002, dated 25.09.2002, has been properly exercised, as the notice dated 22.03.2004 is stated to indicate the due date for payment, date of payment, number of days delayed and the quantum of interest payable. In the typed set of papers, the petitioner has not filed a copy of the notice dated 22.03.2004 nor there is any reply affidavit filed to the counter affidavit. Therefore, the ground on which the impugned orders have been challenged by contending that there is a violation of the principles of natural justice deserves to be rejected. Hence, for that reason, this Court is not inclined to entertain the writ petition seeking to interfere with the impugned assessment orders. However, the petitioner has an effective alternative remedy to avail the same, if he is so advised.

6. Hence, the writ petition is held to be not

maintainable and accordingly, it is dismissed giving liberty to the petitioner to file an appeal before the appellate authority. If the appeal is presented before the appellate authority within a period of 30 days from the date of receipt of a copy of this order, the same shall not be rejected on the ground of limitation. The Registry is directed to return the original impugned order. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rkm
To

1.The Secretary to Government,
Industries Department,
Fort St. George, Chennai.

2.The Manager,
District Industries Centre,
Tirunelveli.

3.Commercial Tax Officer,
Sankarankovil.

4.The Managing Director,
State Industries Promotion Corporation
of Tamil Nadu Limited,
No.19-A Rukumani Lakshmipathy Road,
Egmore, Chennai - 8.

5.Assistant Commissioner (CT),
Tirunelveli.

+3cc to Mr.M.Md.Ibrahim Ali, Advocate SR.No.50865
+1cc to special Government Pleader SR.No.51252

W.P.Nos.15874 to 15876 of 2004

SSK(CO)
GN(11/08/2017)