IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2018

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.Nos.7251 to 7254 of 2018 &
W.M.P.Nos.9011 to 9014 of 2018

Tvl. Supreme Industries Limited
Rep. by its J.Jayakumar
Accounts Executive, Authorised Signatory
Nos.90&91, Sanyasikuppam Village
Thirubuvanai Post
Puducherry - 605 107. ... Petitioner in all WPs

vs.

1.The Deputy Sales Tax Officer
Kandamangalam Check Post
O/o.The Deputy Commissioner (ST) (ENF)
Lingareddy Palayam
Villupuram District

2. The Assessing Officer
Puducherry Assessment Circle
Puducherry

3. The Assessing Authority/
Assistant Commissioner (CT)
Hosur Assessment Circle
Hosur, Tamil Nadu .. Respondents in all WPs

W.P.No.7251 of 2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the 1st respondent in G.D.No.3525/2014-15, dated 12.03.2018, quash the same being illegal and without jurisdiction.

W.P.No.7252 of 2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the 1st respondent in G.D.No.3526/2014-15, dated 12.03.2018, quash the same being illegal and without jurisdiction.

W.P.No.7253 of 2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the 1st respondent in G.D.No.3527/2014-15, dated 12.03.2018, quash the same being illegal and without jurisdiction.

W.P.No.7254 of 2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the 1st respondent in G.D.No.3528/2014-15, dated 12.03.2018, quash the same being illegal and without jurisdiction.

For Petitioner: Mr.N.Kirubanandam
For Respondent: Mr.M.Hariharan
Addl. Govt. Pleader (T) - for R1 & R3

Mr.J.Kumaran
Govt. Advocate, Puducherry - for R2

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader (Tax) takes notice for the respondents 1 and 2 and Mr.J.Kumaran, learned Government Advocate (Puducherry), takes notice for the 3rd respondent. By consent, the main writ petitions are taken up for disposal at the admission stage itself.

2. The petitioner has filed the above writ petitions to issue a Writs of Certiorari to call for the records on the file of the 1st respondent dated 12.03.2018 and to quash the same.

3. It is the case of the petitioner that their company is a limited company and their goods were detained for untenable reason and non application of mind. According to the petitioner, the 1st respondent, without jurisdiction issued an adjudication notice dated 24.11.2017 which were suitably replied by the petitioner vide their letter dated 07.12.2017.

4. Mr.N.Kirubanandam, learned counsel appearing for the petitioner submitted that in similar circumstances, this court by order dated 26.06.2015 in W.P.No.18587 of 2015 has passed the following order :-

> "8. In view of the above, the 1st respondent is directed to release the goods along with the vehicle on production of a copy of this order. If the 1st respondent is of the view that the goods escaped the assessment, it is open to him to convey the same to the Assessing Officer by way of a communication for passing appropriate orders.
> In the result, the impugned order is set aside and the writ petition is allowed. No costs. Connected miscellaneous petition is closed."

That apart, in W.P.No.43715 of 2016, dated 19.12.2016 and also in W.P.No.28506 of 2016, dated 22.02.2017, in similar circumstances, this court had held the issue in favour of the petitioners therein.

5. Mr.M.Hariharan, learned Additional Government Pleader, appearing for the respondents 1 and 3 , submitted that the issue involved in the present writ petitions are identical to the issue involved in W.P.No.18587 of 2015, dated 26.06.2015. Hence, similar order can be passed in these writ petitions also.

6. In view of the submissions made by the learned counsel on either side, following the order dated 26.06.2015 made in W.P.No.18587 of 2015, the impugned orders dated 12.03.2018 passed by the 1st respondent are set aside and the 1st respondent is directed to release the goods along with the vehicle on production of a copy of this order. If the 1st respondent is of the view that the goods escaped the assessment, it is open to him to convey the same to the Assessing Officer by way of a communication for passing appropriate orders.

With these observations, the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True copy//

Sub Assistant Registrar

Rj

To

1.The Deputy Sales Tax Officer
Kandamangalam Check Post
O/o.The Deputy Commissioner (ST) (ENF)
Lingareddy Palayam
Villupuram District

2. The Assessing Officer
Puducherry Assessment Circle
Puducherry

3. The Assessing Authority/
Assistant Commissioner (CT)
Hosur Assessment Circle
Hosur, Tamil Nadu

+1cc to Mr.N.Kirubanandam, Advocate SR.No.23622

W.P.Nos.7251 to 7254 of 2018 &
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NRL(CO)
GN(02/04/2018)