IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.4362 & 4363 of 2018
&
W.M.P.Nos.5355 to 5358 of 2018

M/s.MAS Milk Gowa
Rep. by its Proprietrix A. Sargunam
No.536, Gandhi Road
Mecheri
Kalavai-632 506
Vellore District ... Petitioner in both Writ Petitions

Vs.

Deputy Tax Officer
Arcot
Vellore District ...Respondent in both Writ Petitions

Prayer: Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the records on the file of the Respondent in its impugned proceedings made in TIN 33504582339/2013-14 and TIN 33504582339/2014-15 dated 15.11.2017 and quash the same.

For Petitioner : Mr.R.Hemalatha

For Respondent : Mr.G.Dhanamadhri
Government Advocate

O R D E R

Heard Ms.R.Hemalatha, learned counsel appearing for the petitioner and Mr.G.Dhanamadhri, learned Government Advocate appearing for the respondent.

2.The petitioner has filed these writ petitions challenging the Assessment Orders under the Tamil Nadu Value Added Tax Act, 2006 for the assessment years 2013-14 and 2014-15. The petitioner, without filing objections to the revision notices dated 15.09.2017 and 25.09.2017, has approached this Court contending that the impugned orders are unsustainable and the petitioner has to be treated as a Sweet Stall under the provisions of Section 7(1)(a) of the Tamil Nadu Value Added Tax, 2006 and Section 3(1)(a) of the Act will not apply.

3. In my considered view, this factual position cannot be gone into in a writ petition and the petitioner has to necessarily approach the Authorities. In the light of the fact that the writ petition was entertained and an order of stay has been granted, this Court is inclined to grant one more opportunity to the petitioner to go before the Assessing Officer, subject to conditions.

Accordingly, these writ petitions are disposed of by directing the petitioner to pay 15% of the disputed tax for each Assessment Year within a period of three weeks from the date of receipt of a copy of this order. If this condition is complied with within the time permitted, the petitioner is entitled to treat the impugned order as show-cause notice and submit their objections within a period of two weeks thereafter. On receipt of objection, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. Till the above exercise is completed, the demand of the balance of tax penalty shall remain stayed. In the event of petitioner fails to comply with the above condition, the benefit of this order will not enure to the petitioner and the writ petitions would stand automatically dismissed without further reference to this Court. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gpa
To

Deputy Tax Officer,
Arcot,
Vellore District.

+2cc to M/S.R.Hemalatha, Advocate Sr.37172
+1cc to the Special Government Pleader Sr.37657

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srg 21/06/2018