IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.11.2018

CORAM:
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABABU

W.P.Nos.8271 & 6868 of 2018
& W.P.No.28002 of 2015
and
W.M.P.Nos.10237 & 10309 of 2018
and
W.M.P.Nos.8507 & 8508 of 2018
and
M.P.Nos.1 & 2 of 2015

M/s.Sri Venkateswara Traders
Rep. By its Proprietor - N.Kartikeyan
No.11, Salem Main Road,
Mallasamudram Post,
Namakkal - 637 503
Namakkal District. ..Petitioner in W.P.No.8271 of 2018

2.M/s.Samy Hardwares,
Rep. By its Proprietor- S.Jayachandran
No.1/148, Villupuram Main Road,
Kandachipuram
Tirukoilur Taluk,
Villupuram District. ..Petitioner in W.P.No.6868 of 2018

3.M/s.Manipal Corporation,
rep. By its Proprietor S.Srinivasan
No.25, Anna Salai,
Arcot,
Vellore District. ..Petitioner W.P.No.28002 of 2015

-vs-

1.The Assistant Commissioner (ST),
Tiruchengode (Rural) Circle,
Tiruchengode,
Namakkal District. ..Respondent in W.P.No.8271 of 2018

2.The Commercial Tax Officer,
Tirukoilur,
Villupuram District. ..Respondent in W.P.No.6868 of 2018

3.The Commercial Tax Officer,
Arcot,
Vellore District. ..Respondent in W.P.No.28002 of 2015

Prayer in W.P.No.8271 of 2018: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the respondent in his impugned proceedings made in TIN:33603201392/2013-14 dated 15.03.2018 and quash the same.

Prayer in W.P.No.6868 of 2018: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the respondent in his impugned proceedings made in TIN:33724762153/2015-16 dated 17.11.2016 quash the same.

Prayer in W.P.No.28002 of 2015: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the respondent in his impugned proceedings made in TIN No.33074582915/2014-15 dated 04.08.2015 quash the same.

For Petitioners in all W.Ps : Mr.S.Rajasekar

For Respondents in all W.Ps : Mrs.G.Dhana Madhri, Government advocate

COMMON ORDER

All these three writ petitions have filed by different writ petitioners/dealers, challenging the respective order of assessment.

2.Mr.S.Rajasekar, learned counsel appearing for the petitioners and Mrs.Dhana Madhri, learned Government Advocate appearing for the respondents.

3.These writ petitioners exercise their option to pay tax at the rate of 0.5% under Section 3(4) of the Tamilnadu Value Added Tax Act, 2006 in respect of the turnover referable to the subject matter assessment year. However, the Assessing Officer found that these petitioners are not entitled to pay at the above referred rate of tax by taking shelter under Section 3 (4) of the said Act solely, on the reason that one of such transaction referred to the impugned order is an inter-state sale which is not covered under Section 3(4) of the said Act.

4.The learned counsel for the petitioner though sought to contend that Section 3(4) of the said Act does not prohibit or bar the inter-state sale to take benefit under Section 3(4), this Court, at this stage, is not inclined to go into such issue, more particularly, when the petitioner can very well raise such submission and file an appeal before the Appellate Authority when admittedly, the present impugned orders were passed after affording an opportunity of hearing to the petitioners.

5. Therefore, without expressing any view on the merits and the contentions raised by both the parties, these Writ Petitions are disposed by granting liberty to petitioners to file a statutory appeal by complying with the other statutory requirements, within a period of two weeks from the date of receipt of a copy of the order. If any such appeal is filed, the Appellate Authority shall consider the same and pass orders on merits and in accordance with law within a period of six weeks thereafter and without reference to the period of limitation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vsi/kkn

To

1.The Assistant Commissioner (ST),
Tiruchengode (Rural) Circle,
Tiruchengode,
Namakkal District.

2.The Commercial Tax Officer,
Tirukoilur,
Villupuram District.

3.The Commercial Tax Officer,
Arcot,
Vellore District.

+4ccs to Mr.R.Hemalatha, Advocate,S.R.Nos.76925,76927 and 76928
+1cc to the Government Pleader, S.R.No.77404

W.P.Nos.8271, 6868 of 2018
and 28002 of 2015

BS(CO)

rrs 27/11/2018