IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-12-2018

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.31019 of 2005
And
W.P.M.P.No.33994 of 2005

Tvl.S.C.M.Textile Processing Mills,
Represented by its Partner Mr.N.K.Nandhugopal,
896/2, Suriya Nagar,
ABT Road,
Karuvampalayam,
Tirupur-4. ... Petitioner

Vs

1.The Deputy Commercial Tax Officer,
Tirupur South Assessment Circle,
Tirupur.

2.The Commercial Tax Officer,
Tirupur South Circle,
Tirupur. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the notice issued by the first respondent herein in TNGST No.2320342/2003-2004 dated 29.7.2005 and quash the same.

For Petitioner : Mr.M.Md. Ibrahim Ali

For Respondents: Mr.M.Hariharan,
Additional Government Pleader
(Taxes).

O R D E R

The notice impugned dated 29.7.2005, issued by the first respondent/Deputy Commercial Tax Officer, Tirupur South Assessment Circle, Tirupur/first respondent, is under challenge in the present writ petition.

2. The learned counsel, appearing on behalf of the writ petitioner, citing the order dated 29.7.2002 passed in

O.P.No.503 of 2002 by the Tamil Nadu Taxation Special Tribunal, Chennai, contended that consumables used as dyes and chemicals cannot be taxed and therefore, the entire arguments advanced on the side of the respondent should fail.

3. Relying on the abovesaid order passed by the Tamil Nadu Taxation Special Tribunal, Chennai, the learned counsel for the writ petitioner is of an opinion that the actions initiated and the consequential notice impugned in the present writ petition are to be scrapped.

4. The learned counsel for the writ petitioner further states that in the similar circumstances, this Court passed an order in respect of the very same writ petitioner/assessee, in WP No.14532 of 2006 dated 17.7.2017 and this Court directed the writ petitioner therein/assessee to submit their explanations/objections, if any and on that basis, the order can be passed by the Competent Authority by considering the case on merits.

5. The learned Additional Government Pleader, appearing on behalf of the respondents, disputed the contentions of the learned counsel for the writ petitioner, by stating that the issues were adjudicated by this Court and based on the order passed by the Hon'ble Division Bench, this Court passed an order subsequently on 21.8.2017 in WP Nos.28413 and 28414 of 2005 and therefore, the case of the writ petitioner cannot be considered.

6. In this view of the matter, the writ petitioner is directed to submit his objections/explanations along with the documents, if any, within a period of 30 days from the date of receipt of a copy of this order. If any such objections or explanations are not received, the respondents are at liberty to consider the issues on merits and pass orders by following the procedures contemplated under law, within a period of four weeks thereafter.

7. With the above directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Deputy Commercial Tax Officer,
Tirupur South Assessment Circle,
Tirupur.

2.The Commercial Tax Officer,
Tirupur South Circle,
Tirupur.

+1cc to M/S.M.Md.Ibrahim Ali, Advocate sr.85037
+1cc to the Special Government Pleader Sr.85561

WP No.31019 of 2005

ppa[co]
srg 11/01/2019