

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2018

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.Nos.4609 to 4611 of 2018
and W.M.P.Nos.5677 to 5679 of 2018

Tvl.Sivakumar Enterprises Pvt Ltd.,
rep by its Managing Director
D.S.Sivakumar,
No.1/105, Near Shanthi Theatre,
Samundeeswari Nagar,
Villupuram. ... Petitioner in all
3 W.Ps

Vs.

The Assistant Commissioner (ST),
Villupuram - 1. ... Respondent in all 3
W.Ps

Petitions filed under Article 226 of the Constitution of India to issue Writs of Certiorari calling for the records of the respondent in proceedings in TIN/33594683703/2014-15, 2015-16 & 2016-17 dated 25.01.2018 and quash the same.

For Petitioner : Mr.R.Senniappan
(in all 3 W.Ps)

For Respondent : Mrs.G.Dhanamadhri,
(in all 3 W.Ps) Government Advocate (Tax)

C O M M O N O R D E R

The petitioner has filed the above Writ Petitions to issue writs of certiorari to call for the records of the respondent in his proceedings dated 25.01.2018 and in respect of the assessment years 2014-15, 2015-16 & 2016-17 and to quash the same.

2.Mr.R.Senniappan, learned counsel appearing for the petitioner submitted that the impugned orders are liable to be set aside for the reason that in similar circumstances, this Court in W.P.Nos.35019 & 25020 of 2016 by order dated 01.12.2016 [M/s.Saravana Super Market rep by its Proprietor P.Selvam, No.26, Ottavadi Chetty Street, Theyaradi, Vandawasi - 604 408, Tiruvannamalai District Vs. The Commercial Tax Officer, Vandawasi, Tiruvannamalai District] had held as follows:

"...

3. Accordingly, the writ petitions are allowed, the impugned orders are set aside and the matter is remanded to the respondent for fresh consideration who shall take note of the conduct of the petitioner in remitting tax even prior to the issuance of show cause notice dated 18.08.2016 and 31.05.2016 respectively and consider both the issues regarding the levy of penalty as well as the equal time addition and pass fresh orders in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed."

Further, the learned counsel submitted that the petitioner may be given an opportunity to file their objections before the respondent.

3. Mrs. G. Dhanamadhri, learned Government Advocate appearing for the respondent submitted that the issue involved in the present Writ Petitions and in the Writ Petitions in W.P.Nos.35019 & 35020 of 2016 are identical.

4. Having regard to the submissions made by the learned counsel on either side, following the order passed by this Court in W.P.Nos.35019 & 35020 of 2016 dated 01.12.2016, the impugned orders dated 25.01.2018 are set aside. The petitioner is directed to submit their objections within two weeks from the date of receipt of a copy of this order. On submission of the objections, the respondent is directed to decide the matter afresh, taking into consideration the objections to be filed by the petitioner and consider both the issues regarding levy of penalty as well as the equal time addition and pass orders in accordance with law.

5. With these observations, the Writ Petitions are allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (ST), Villupuram - 1.

+ 1 cc to Mr. R. Senniappan, Advocate Sr. 15712

W.P.Nos.4609 to 4611 of 2018
and W.M.P.Nos.5677 to 5679 of 2018

MG(CO)

EU (09/03/2018)

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