IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.7797 to 7800 of 2014
and M.P.Nos.1, 1, 1, and 1 of 2014

Tvl.Anis Paints
Represented by its Proprietor
Mr.Syed Musthafa
Previously at No.4B/1, 126, D.D.Road
Now at No.113, G.V.S.Plaza, D.D.Road
Dhadhupaikuttai, Salem - 636 001.

... Petitioner in all W.Ps'.

Vs.

The Assistant Commissioner (CT) FAC)
Salem (Town) (South), Salem.

... Respondent in all W.Ps'.

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records on the files of the respondent in TIN.33112822731/2010-11, 2011-12, 2012-13 and 2013-14 dated 17.01.2014 and TIN.33112822731/2013-14 dated 21.01.2014 and quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice and that of the principle laid down by this Court in the judgment reported in (2012) 50VST 179 (Mad) (Althaf Shoes (P) Ltd., Vs. Assistant Commissioner (CT), Valluvarkottam Assessment Cricle, Chennai- 6).

For Petitioner : Mr.R.Senniappan
(In all W.Ps')

For Respondent : Ms.G.Dhanamadhri
(In all W.Ps') Government Advocate (T)

COMMON ORDER

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

2.The petitioner has challenged the Assessment orders under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the assessment years 2010-11 to 2013-14.

3. Two issues arise for consideration in all these assessment years. One is regarding “mismatch” of the details found in the monthly returns filed by the petitioner and Annexure 2 of the selling dealer. The other issue is relating to the rate of tax for paint primers.

4.So far as the first issue is concerned, the petitioner should be granted an opportunity to put forth their contentions and the Assessing officer has to conduct an enquiry and then, come to a conclusion. In this regard, certain guidelines have been framed by this Court in the case of J.K.M Graphics Solutions Pvt. Ltd., Vs. CTO, Veppery Assessment Circle reported in (2017) 99 VST 343.

5.With regard to the second issue, namely rate of tax for paint primers, this Court vide order dated 23.01.2018 in the case of M/s.Balaji Marketing Vs. The Authority for Clarification and Advance Ruling (W.P.No.24912 of 2013) has held that rate of tax is 5%. Hence, both the issues requires to be remanded for fresh consideration to the respondent.

Accordingly, these writ petitions are disposed of by directing the petitioner to treat the impugned Assessment Orders as show cause notices and file their objections to both the issues. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT) FAC)
Salem (Town) (South), Salem.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.48787

+1cc to the Spl Government Pleader, S.R.No.39699

W.P.Nos.7797 to 7800 of 2014
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KS(CO)
GSP(07/08/2018)