IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2018

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.21171 & 21172 of 2018
and
WMP.Nos.24847 & 24848 of 2018

TVL.KJK Polydiamonds International (P) Ltd.,
Rep.by its Managing Director Mr.K.Jayakumar,
No.3-E, No.112, Nungambakkam High Road,
Chennai - 34. ... Petitioner
(in W.P.Nos.21171 & 21172 of 2018)

Versus

The Assistant Commissioner [CT]
Nungambakkan Assessment Circle,
No.88, Mayor Ramanatham Salai,
Chennai - 31. ... Respondent
(in W.P.Nos.21171 & 21172 of 2018)

Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records on the files of the respondent in CST Nos.822345/2012-2013 and 822345/2014-2015 dated 19.07.2018 and quash the same.

For Petitioner : Mr.D.Vijaya Kumar
(in W.P.Nos.21171 & 21172 of 2018)
For Respondent : Mr.Hariharan,
Additional Government Pleader(Tax)
(in W.P.Nos.21171 & 21172 of 2018)



C O M M O N O R D E R

Mr.M.Hariharan, learned Additional Government Pleader (Tax) takes notice for the respondent in both these writ petitions. By consent of the parties, these writ petitions are taken up for final disposal at the admission stage itself.

2. The petitioner in both these writ petitions is one and the same. The petitioner is aggrieved against the orders of assessment passed in respect of the assessment years 2012-2013 and 2014-2015 dated 19.07.2018. The main grievance of the petitioner in respect of both the assessment years is that the Assessing Officer has erroneously determined the tax at 14.5% in respect of the total and taxable turnover, while in fact, in the very same assessment orders, the Assessing Officer has considered the filing of C-Form for the net sale value of Rs.3,53,52,959/- in one case and Rs.1,70,11,154/- in another case and accordingly, by accepting such filing of C-Form, assessed the tax at the rate of 2%. Likewise, it is contended, that the Assessing Officer has assessed the tax at the rate of 5% in respect of the value of Rs.1,71,88,521/- in one case and Rs.29,59,118/- in another case, where the Assessee has not filed the C-forms. Therefore, according to the petitioner, these two turnovers, which are already accepted by the Assessing Officer by assessing the tax at 2% and 5%, respectively as stated supra, cannot be included once again in total and taxable turnover for assessing the tax at 14.5%.

3. The learned Additional Government Pleader (Tax) for the respondent fairly submitted that a mistake has crept in, while passing the impugned orders of assessment, as pointed out by the petitioner. Therefore, he submitted that the matter may be remitted back to the Assessing Officer to re-do the assessment once again.

4. Perusal of the impugned orders of assessment on the face of it discloses that the Assessing Officer, has assessed the turnover at 2%, wherever the C-form has filed and assessed at 5%, wherever C-form has not filed. Having chosen to assess the tax at the said rate in respect of the turn overs as stated supra, it is not known as to why the Assessing Officer has included those two turn overs also for arriving the total and taxable turnover for determining the tax liability at 14.5%. Therefore, it is evident that a mistake has been committed by the Assessing Officer, while passing the orders of assessment, impugned in these writ petitions. Accordingly, both these writ petitions are allowed and the impugned orders of assessment are set aside. Consequently, the matter is remitted back to the Assessing Officer to re-do the assessment once again on merits and in accordance with law, after giving due opportunity of hearing to the petitioner. The petitioner is given two weeks time to give their reply to the notice of proposal from the date of receipt of a copy of this order. On receipt of such reply, the Assessing Officer shall pass fresh orders of assessment within a period of

four weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner [CT]
Nungambakkan Assessment Circle,
No.88, Mayor Ramanatham Salai,
Chennai - 31.

+1cc to Mr.D.Vijaya Kumar , Advocate SR.No. 56722
+1 CC TO GOVERNMENT PLEADER SR.NO. 56942

W.P.Nos.21171 & 21172 of 2018

ASK(17/09/2018)