In the High Court of Judicature at Madras

Dated : 12.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.8868 to 8870 of 2018
and WMP.Nos.10719 to 10724 of 2018

M/s.Cosmik Industry, rep.by its
Managing Partner K.P.Badrinarayanan ...Petitioner in all W.Ps

Vs

The Assistant Commissioner (ST),
Big Bazar Street Circle, Commercial
Taxes Building, Coimbatore-18. ...Respondent in all W.Ps

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records of the respondent in his proceedings in TIN 33501841895/2010-11, TIN 33501841895/2011-12 and TIN 33501841895/2012-13, all dated 23.3.2018 and quash the same as illegal.

For Petitioner : Mr.S.Ramanthan
For Respondent : Mrs.G.Dhana Madhri, GA

COMMON ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the respondent. Heard both. In the light of the glaring error, which has occurred while passing the impugned assessment orders, the writ petitions are taken up for joint disposal even at the admission stage. By adopting this methodology, the interest of the Revenue will be protected and the dealer will also have adequate opportunity to put forth their contentions.



2. The impugned assessment orders have been challenged on the ground of violation of the principles of natural justice and also on the ground that the respondent could not have issued a common notice under the provisions of both the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956. The third ground of attack is by contending that in the notices dated 06.3.2018, there was no proposal for reversal of the input tax credit on melting loss. The fourth ground of attack is by contending that the notices dated 21.5.2014, referred to in the impugned orders, were never issued to the petitioner.

3. As could be seen from the notices dated 06.3.2018, there is no reference to the notices dated 21.5.2014. It may not be necessary for this Court to go into the factual aspects as put forth by the petitioner, as this Court is convinced that the respondent could not have proceeded against the petitioner and passed a common order under the provisions of both the State and the Central Enactments. In fact, the proposals under both the State and the Central Enactments should have been by separate notices clearly stating as to on what basis, there was a proposal to reverse the input tax credit availed by the petitioner. On account of this glaring error alone, this Court is inclined to interfere with the impugned orders and not on any other ground.

4. Accordingly, the writ petitions are allowed, the impugned orders are set aside and the matters are remanded to the respondent for a fresh consideration. The respondent shall issue separate notices under the provisions of both the State and the Central Enactments, give reasonable opportunity to the petitioner to file objections and after affording an opportunity of personal hearing and redo the assessments in accordance with law. No costs. Consequently, the connected WMPs are closed.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner (ST), Big Bazar Street Circle, Commercial
Taxes Building, Coimbatore-18.



+1 CC to Mr.S. Ramanathan, Advocate sr 27398.
+1 CC to Spl. Govt. Pleader sr 27903.



WP.Nos.8868 to 8870 of 2018 &
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KJ(CO)
SP(03/05/2018)