IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.04.2018

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

W.P.Nos. 10998 & 10999 of 2018
and
W.M.P.Nos. 12900, 12901, 12902 & 12903 of 2018

M/s.Sun Agro Products
A Partnership firm
Represented by its Partner S.Periyasamy
4/187A-Sakthi Nagar
Nalikkalapatty Post
Salem - 636 201. ..Petitioner in both Wps

Vs

1.State of Tamil Nadu
Represented by its Secretary
Commercial Tax Department
Fort St. George, Chennai.

2.Commercial Tax Officer
Suramangalam Circle, Salem.

3.Sales Tax Officer
Suramangalam Circle, Salem.
.. Respondents in both WPs

PRAYER in W.P.No.10998/2018: Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorari, calling for the entire records relating to Assessment No.CST.No.782277/2013-14 (TIN.No.33142802684/ 2013-14 dated 13.03.2017 on the file of the 2nd respondent so far as the reversal of input tax credit of Rs.1,70,651/- is concerned, and the consequential notice of recovery dated 09.03.2018 - Assessment No.CST. No.782277/2013-14 on the file of the 3rd respondent, (demanding Rs.1,68,547.00 for 2013-14 and Rs.52,460.00 for 2014-15) quash the same.

PRAYER in W.P.No.10999/2018: Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorari, calling for the entire records relating to Assessment No.CST.No.782277/2014-15 (TIN.No.33142802684/ 2013-14 dated 13.03.2017 on the file of the 2nd respondent so far as the reversal of input tax credit of Rs.54,960/- is concerned, and the consequential notice of recovery dated 09.03.2018 -

Assessment No.CST. No.782277/2013-14 on the file of the 3rd respondent, (demanding Rs.1,68,547.00 for 2013-14 and Rs.52,460.00 for 2014-15) quash the same.

For Petitioner : Mr.D.Shivakumaran [in both Wps]

For Respondents :Mr.M.Hariharan [in both WPs]
Additional Government Pleader [Taxes]

O R D E R

The Assessment order passed by the Commercial Tax Officer, Suramangalam Circle, Salem, in proceedings dated 13.03.2017 is under challenge in this writ petition.

2.The assessment was made for the financial years 2013-2014 and 2014-2015 in respect of the reversion of the Input Tax Credit.

3.The learned counsel appearing on behalf of the writ petitioner states that already this court has passed an order in a batch of writ petitions, it is reported in CDJ 2017 MHC 1396, and this court held that the writ petitions filed questioning the jurisdiction of the authority can be entertained under Article 226 of the Constitution of India in respect of Reversion of the Input Tax Credit.

4.The learned Additional Government Pleader appearing on behalf of the respondent made a submission that the said order cited by the petitioner is challenged before the Hon'ble Division Bench in W.A.No.1260 of 2017 and the arguments were concluded and the case is reserved for delivering judgment.

5.This being the factum of this case, this court is of an opinion that the the writ petitioner shall be permitted to deposit 50% each of the demanded amounts till the final disposal of the writ appeal in W.A.No.1260 of 2017. If the judgment by the Hon'ble Division Bench is in favour of the writ petitioner then the same benefit shall be extended to the petitioner based on the merits of their case. Thus, the writ petitioner is directed to deposit 50% each of the demanded amounts within a period of six(6) weeks from the date of receipt of a copy of this order.

6.However, it is made it clear that all further action in this regard are subject to the orders to be passed by the Hon'ble Division Bench of this Court in Writ Appeal No.1260 of 2017.

7.Thus, the respondents are directed to keep all proceedings in abeyance in respect of the writ petitioner and proceed with all further action after the judgment to be delivered in W.A.No.1260 of 2017.

8.With these observations, these writ petitions stands disposed of. Consequently, connected miscellaneous petitions are closed. However, there is no order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True copy//

Sub Assistant Registrar

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To

1.The Secretary
Commercial Tax Department
Fort St. George, Chennai.

2.The Commercial Tax Officer
Suramangalam Circle, Salem.

3.The Sales Tax Officer
Suramangalam Circle, Salem.

+2cc to Mr.D.Shivakumaran, Advocate SR.No.31686, 31685
+1cc to Special Government Pleader (Taxes)SR.No.32596

W.P.Nos.10998 & 10999 of 2018

RV(CO)
GN(11/05/2018)