IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition Nos.23974 to 23977 of 2018
and
WMP Nos.27918 to 27922 of 2018

M/s.Ragavendra Traders
Rep. by its Proprietor Mr.V.G.Murali
No.35.35/1, Bazaar Street,
Ammoor.

..Petitioner (in WP.Nos. 23974 to 23977 of 2018)

Vs.

1. The Assistant Commissioner (CT)
Ranipet Assessment Circle
No.19A, Kellys Road,
Navalpur, Ranipet - 632 401.

2. The Commissioner of Commercial Taxes
Ezhilagam, Chepauk
Chennai-600 005. ..Respondents (in WP.Nos. 23974 to 23977 of 2018)

Writ petitions filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in TIN:33734280882/2011-2012, 2012-2013, 2013-2014 and 2014-2015 dated 26.06.2015 and 29.01.2016 quash the same and further direct the first respondent to follow the circular issued by the second respondent in Letter No.BD3/44728/2010 dated 04.11.2013 followed by the subsequent circular in D3/22678/2015 (Cricular No.29/2015) dated 11.08.2015.

For Petitioner :Mr.V.Sundareswaran (in WP.Nos. 23974 to 23977 of 2018)

For Respondents :Mrs.G.Dhana Madhri Government Advocate (Tax) (in WP.Nos. 23974 to 23977 of 2018)

C O M M O N O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate (Tax) takes notice for the respondents. By consent of the parties, these writ petitions are taken up for final disposal at the admission stage itself.

2. All these writ petitions are filed by one and the same petitioner, challenging the orders of assessment dated 26.06.2015 in respect of the assessment years 2011-2012, 2012-2013 and 2013-2014 and the order of assessment dated 29.01.2016 in respect of the assessment year 2014-2015.

3. Heard both sides.

4. Though these writ petitions are filed by raising very many grounds on merits of the assessment orders, impugned herein, this Court is not inclined to go into those issues and express any view on the same for the simple reason that these writ petitions are filed after a period of nearly three years in respect of three assessment years and 2 1/2 years in respect of another assessment year. Apart from the said fact, it is also seen that the petitioner did not file their objections to the notice of proposal received in respect of each assessment year.

5. The learned counsel for the petitioner, however, contended that the impugned assessment orders are not sustainable on the sole reason that they were passed in violation of the circulars issued by the second respondent dated 04.11.2013 and 11.08.2015 interpreting Section 19(20) of the Tamil Nadu Value Added Tax Act. Therefore, he contended that the orders impugned in these writ petitions are erroneous on the face of it. He further contended that the petitioner though made an attempt to file a rectification petition on 16.02.2017, the Assessing Officer refused to receive the same. It is also submitted by the learned counsel for the petitioner that the petitioner has paid some payment towards tax liability and therefore, there cannot be any impediment for the respondents to consider the assessment afresh, after giving an opportunity of hearing to the petitioner.

6. On the other hand, the learned Government Advocate (Tax) submitted that this Court cannot show any indulgence to the petitioner, more particularly, when they have not filed their reply to the notices of proposal. However, she is not disputing the position of law that the rectification petition can be filed within a period of six years from the date of the assessment order.

7. I have already expressed not to entertain these writ petitions on the ground of delay and latches. At the same time, if the petitioner is having an alternative remedy, by way of filing an application under Section 84 of the TNVAT Act, seeking

rectification, it is open to the petitioner to do the same, as the disposal of these writ petitions cannot stand in the way of the petitioner to go before the Assessing Officer, by filing such application under Section 84 of the TNVAT Act. Therefore, these writ petitions are disposed of, by granting liberty to the petitioner to file such application under Section 84 of the TNVAT Act before the Assessing Officer, within a period of seven days from the date of receipt of a copy of this order. If any such application is filed, the same shall be considered and appropriate orders shall be passed on merits and in accordance with law, after hearing the petitioner in person within a period of three weeks thereafter. Till such time, the respondents are directed not to take any coercive steps against the petitioner. No costs. Connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS IX)

// True Copy//

Sub Assistant Registrar

To

1.The Assistant Commissioner (CT)
Ranipet Assessment Circle
No.19A, Kellys Road,
Navalpur, Ranipet - 632 401.

2.The Commissioner of Commercial Taxes
Ezhilagam, Chepauk
Chennai-600 005.

+ 1 CC TO MR.V.SUNDARESWARAN, ADVOCATE SR 65350

+ 1 CC TO SPL. GOVT. PLEADER (TAXES), HIGH COURT, MDS-104.
SR 65614

KR/5/10/18

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