In the High Court of Judicature at Madras

Dated : 06.07.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.15974 to 15977 of 2018
&
W.M.P.No.19001 to 19004 of 2018

M/s.Sastha Pipes and Paints
Rep. by its Proprietor Mr.A.Sathivel
55/6, Sabanayagar Street
Chidambaram ... Petitioner in all WPs

Vs

1.The State Tax Officer
Chidambaram - III Assessment Circle
Chidambaram

2.The Joint Commissioner (CT)
Enforcement, Vellore ...Respondents in all WPs

Prayer in W.P.No.15974 of 2018: Writ petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in TIN: 33404461726/2013-14 dated 28.02.2018 and the consequential order in TIN: 33404461726/2013-14 dated 16.05.2018, quash the same and further direct the respondents to consider the representation dated 26.04.2018 by granting a reasonable opportunity of being heard, enabling the petitioner to produce the records and thereafter pass orders in accordance with the provisions of the Tamil Nadu Value Added Tax Act, 2006.

Prayer in W.P.No.15975 of 2018: Writ petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in TIN: 33404461726/2014-15 dated 28.02.2018 and the consequential order in TIN: 33404461726/2014-15 dated 16.05.2018, quash the same and further direct the respondents to consider the representation dated 26.04.2018 by granting a reasonable opportunity of being heard, enabling the petitioner to produce the records and thereafter pass orders in accordance with the provisions of the Tamil Nadu Value Added Tax Act, 2006.

Prayer in W.P.No.15976 of 2018: Writ petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in TIN: 33404461726/2015-16 dated 28.02.2018 and the consequential order in TIN: 33404461726/2015-16 dated 16.05.2018, quash the same and further direct the respondents to consider the representation dated 26.04.2018 by granting a reasonable opportunity of being heard, enabling the petitioner to produce the records and thereafter pass orders in accordance with the provisions of the Tamil Nadu Value Added Tax Act, 2006.

Prayer in W.P.No.15977 of 2018: Writ petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in TIN: 33404461726/2016-17 dated 28.02.2018 and the consequential order in TIN: 33404461726/2016-17 dated 16.05.2018, quash the same and further direct the respondents to consider the representation dated 26.04.2018 by granting a reasonable opportunity of being heard, enabling the petitioner to produce the records and thereafter pass orders in accordance with the provisions of the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Ms.G.Dhanamadhri
Government Advocate

COMMON ORDER

Heard Mr.V.Sundareswaran, learned counsel for the petitioner and Ms.G.Dhanamadhri, learned Government Advocate appearing for the respondents.

2.The petitioner has filed all these writ petitions challenging the Assessment Orders under the provisions of Tamil Nadu Value Added Tax Act, 2006 for the assessment years 2013-14 to 2016-17 as well as the orders dated 16.05.2018 rejecting the petition filed under Section 84 of the Tamil Nadu Value Added Tax Act.

3.The petitioner did not produce records before the Assessing Officer for reconciling the proposal, which was made in the revision notices dated 13.10.2017 and 11.12.2017. It is only after the impugned Assessment orders were passed on 28.02.2018, the petitioner had realized their mistake and approached the respondent for filing a petition under Section 84 of the TNVAT Act dated 26.04.2018. On a reading of the said petition it is seen that it is totally bereft of materials. In fact, the petitioner has furnished details and asked the officer to recheck the order of assessment issued by him. This is not the manner in which a dealer should respond to an action initiated by an Assessing Officer. The dealer is expected to reconcile the transactions, which were pointed in the revision notices especially when all the details have been furnished by the respondent such as selling dealers TIN number, name of the selling dealer, Invoice number and date, rate of tax as well as purchase turn over. The petitioner has now realized the mistake and is now before this Court contending that an opportunity may be granted to the petitioner. In paragraph 9 of the grounds, the petitioner agrees to pay a sum of Rs.4,24,687/- towards the tax payable for the relevant years.

4. In my considered view, since the issue pertains to "mismatch" based upon the purchase details of the other end dealer furnished in Annexure II, which was taken from the departmental website and compared with the details furnished by the petitioner in Annexure I, an opportunity can be granted to the petitioner to reconcile the transaction. However, this said opportunity shall be subject to condition.

5. Accordingly, the writ petitions are disposed of by directing the petitioner to pay a sum of Rs.6,00,000/- (Rupees Six Lakhs Only) within a period of three weeks from the date of receipt of a copy of this order and if the said payment is made, the petitioner is entitled to treat the impugned Assessment orders dated 28.02.2018 as show-cause notices and submit their objections within a period of 15 days there from. The respondent shall afford an opportunity of personal hearing to the petitioner, during which the petitioner should reconcile the transaction and produce the documents in support of their claim, after which the assessment shall be redone. Till the above direction is completed, no coercive action shall be initiated against the petitioner for recovery of the balance tax and penalty. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gpa

To

1.The State Tax Officer
Chidambaram - III Assessment Circle
Chidambaram.

2.The Joint Commissioner (CT)
Enforcement, Vellore.

+1cc to the Special Government Pleader Sr.44175
+1cc to Mr.V.Sundareswaran, Advocate Sr.44325

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srg 17/07/2018