IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2018

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.12997 to 12999 of 2006

Pratheep Electro Technics,
Rep. by its Proprietor,
3/31-B, 1st Floor,
Abbas Garden Road, Luna Nagar,
Coimbatore-641 025. ... Petitioner in W.P.No.12997/2006

Tvl.Cascade Electro Thermics (P) Ltd.,
Rep. by its Director, A.Mahesh,
3, Cascade Lay out,
Luna Bazaar, Coimbatore-25. ... Petitioner in W.P.No.12998/2006

Tvl.Cascade Helio Thermics Ltd.,
Rep. by its Director, A.Mahesh,
355, Abbas Garden Road,
Luna Bazaar, Coimbatore-25. ... Petitioner in W.P.No.12999/2006

Vs.

The Deputy Commercial Tax Officer,
Vellandipalayam Circle,
CT Buildings, Dr.Balasundara Road,
Coimbatore-641 018. ... Respondent in all W.Ps.

Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for records of the respondent issued under the Revenue Recovery Act in Form 4 dated 10.03.2006, 14.03.2006 and 14.03.2006 respectively and quash the same as illegal, arbitrary and against the principles of natural justice.

For Petitioners: Mr.K.Soundararajan
(in all W.Ps.)

For Respondent : Mr.M.Hariharan,
(in all W.Ps.) Additional Government Pleader

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COMMON ORDER

Heard Mr.K.Soundararajan, learned counsel for the petitioners and Mr.M.Hariharan, learned Additional Government Pleader for the respondent.

2. In these writ petitions, the petitioners have challenged the action initiated by the respondent under the Revenue Recovery Act to recover the arrears of sales tax payable by the petitioners.

3. The petitioners' case is that they have paid tax for the assessment years 2001-02, 2002-03 and 2003-04. However, there was a small arrear in respect of the tax payable for the assessment year 2002-03, which has also been subsequently remitted. However, the respondent straightaway proceeded to initiate distraint proceedings and has issued the impugned notices.

4. The parawise comments furnished by the learned assessing officer to the learned Special Government Pleader vide his proceedings dated 19.03.2009, show that the petitioner has paid the arrears of tax for the assessment years 2002-03 and 2005-06. This pertains to the writ petitioner in W.P.No.12999 of 2006.

5. In respect of W.P.No.12997 of 2006, the respondent has stated that an excess tax and surcharge of Rs.6,847/- was ordered to be refunded for the assessment year 2004-05 and there is no balance tax and surcharge payable for the assessment year 2005-06 as per the assessment orders. Further, it is stated that the petitioner has paid the entire arrears as mentioned in Form 3 & Form 4 notices as on 10.03.2006, and therefore, prayed that this Court may pass appropriate orders.

6. In so far as the writ petitioner in W.P.No.12998 of 2006 is concerned, it is stated that the petitioner has not submitted 'C' Forms obtained from the other State buyers and they did not obtain 'F' Forms initially. It is submitted that the petitioners have subsequently submitted 'F' Form Declaration for Rs.12,87,069/- for the assessment year 2001-02 and appropriate relief has been given by revising the assessment for the said assessment year. Further, it is submitted that the petitioner has filed 'C' Forms for Rs.2,12,115/- and 'F' Forms for Rs.1,94,40,449/- for the assessment year 2002-03 and the assessments have been revised and the balance due has been paid.

7. Thus, for the above reasons, I find that the entire matter has attained finality and the question of enforcing the impugned distraint proceedings does not arise. Accordingly, these writ petitions are allowed and the impugned notices are quashed. No costs.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

To

The Deputy Commercial Tax Officer,
Vellandipalayam Circle,
CT Buildings, Dr.Balasundara Road,
Coimbatore-641 018.

+1cc to Special government Pleader (Taxes), sr.20722

W.P.Nos.12997 to 12999 of 2006

nr 09/04/2018