

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.31617, 31630, 31635, 31640 and 31644 of 2018
and W.M.P.Nos.36854,36855,36866,36877,36871,36872,36880,36881
36883 and 36884 of 2018

W.P.No.31617 of 2018

1.C.Rajendran ... Petitioner in WP.No. 31617 of 2018
2.M.Mylsamy ... Petitioner in WP.No. 31630 of 2018
3.K.Rangasamy ... Petitioner in WP.No. 31635 of 2018
4.P.Karunakaran ... Petitioner in WP.No. 31640 of 2018
5.M.Selvakumar ... Petitioner in WP.No. 31644 of 2018

Vs

1.The State of Tamil Nadu
Rep.by its Secretary to Government
Commercial Taxes Department,
Secretariat, Fort St.George
Chennai - 600 009.
2.The Additional Chief Secretary / Commissioner of
Commercial Taxes Department, Chepauk
Chennai 600 005.
3.The Joint Commissioner (Commercial Taxes)
Salem Division, Salem. Respondents in all WPs

For Petitioner : Mr.Singaravelan, Senior Counsel

For Respondents: Mr.V.Hari Babu
Addl.Govt Pleader (Commercial Taxes)

Prayer : Writ Petition filed under Article 226 of the
Constitution of India seeking a writ of Certiorarified Mandamus
to call for the records pertaining to proceedings of the 2nd
respondent in Proc.No.E1/36982/2013-III, 2013-II, 2013-V, 2013-
I, 2013-IV respectively dated 17.10.2018 and quash the same as
illegal, incompetent and ultravires and consequently direct the
respondents to disburse all the petitioners' monetary benefits

and service benefits within the time frame fixed by this Court.

COMMON ORDER

These writ petitions are filed seeking to quash the proceedings of the 2nd respondent in Proc.No.E1/36982/2013-III dated 17.10.2018 and to quash the same as illegal, incompetent and ultravires and consequently direct the respondents to disburse all the monetary benefits and service benefits

2. Mr.Hari Babu, learned Additional Government Pleader (Commercial Taxes) takes notice for the respondents and submits that the petitioners have already filed appeals against the impugned proceedings and as the appeals are pending before the competent authorities, these writ petitions are not maintainable.

3. At this juncture, learned counsel for the petitioners in all the writ petitions submitted that the persons, who are similarly placed as that of the petitioners have obtained favourable orders from the Government and the appellate authority has also taken it into account the orders passed by this Court in respect of such similarly placed persons, and therefore the impugned orders should be quashed

4. Strictly construing, when the appeals are pending, these writ petitions may not be maintainable. However, it is submitted that those appeals could have been disposed off, in the light of G.O.No.161 dated 20.10.2011 and as it is not done so, this Court can atleast direct the appellate authority to take those materials into account while disposing of the appeals.

5. Under the circumstances, this Court deems it fit to direct the first respondent to take up the appeals filed by the petitioners, and pass orders on merits and in accordance with law, after giving reasonable opportunity of hearing to the petitioners, and if found applicable, the appellate authority shall take into account G.O.(2D) No.161 dated 20.10.2011. The time limit prescribed for the above exercise shall be a period of three months from the date of receipt of a copy of this order. With these observations, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

- 1.The State of Tamil Nadu
Rep.by its Secretary to Government
Commercial Taxes Department,
Secretariat, Fort St.George
Chennai - 600 009.
- 2.The Additional Chief Secretary / Commissioner of
Commercial Taxes Department, Chepauk
Chennai 600 005.
- 3.The Joint Commissioner (Commercial Taxes)
Salem Division, Salem.
- 4.The Additional Government Pleader (Commercial Taxes),
High Court, Madras.

+5cc to Mr.R.Jaya Prakash, Advocate, S.R.No. 82391, 82390,
82393, 82389, 82392

+1cc to the Special Government Pleader (Taxes), S.R.No. 82716

W.P.No.31617, 31630, 31635,
31640 and 31644 of 2018

VBA (CO)
GN(20/12/2018)



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