BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.1159 to 1162 of 2018
and
WMP(MD)Nos.1239 to 1242 of 2018

Vadivel Pyrotechs Pvt Ltd,
Rep.by its Director, A.Vasantha Vikash,
No.8/127, G.Anuppankulam,
Sivakasi,
Virudhunagar District. ... Petitioner in all writ petitions.

Vs.

The Assistant Commissioner (CT) (FAC),
Office of the Assistant Commissioner(CT),
Sivakasi-1. ... Respondent in all writ petitions

Common Prayer : These Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in pre-assessment notice issued by the respondent in CST No.835459/2011-12, 2012-13, 2013-14, 2014-15 (VAT Audit 19/2016-17 dated 09.11.2016 respectively and quash the same as illegal, arbitrary and against the principles of natural justice and direct the respondent to proceed with the revision of assessment after the completion of the adjudication under Central Excise Act as per law.

For Petitioner in all writ petitions : Mr.S.Karunakar

For Respondent in all writ petitions : Mrs.S.Srimathy, Special Government Pleader

COMMON ORDER

The writ petitioners are the registered assesses with the respondent. They had filed their returns for the assessment years in question. They were deemed to have been accepted. But, subsequently based on the proceedings initiated by the Central Excise Department, the respondent chose to issue the impugned pre-assessment notices. The same are impugned on the ground that the proceedings initiated by the Excise Department are still pending and that therefore based on the proceedings they have not yet to concluded. It is not open for the respondent to initiate action for re-opening the concluded assessments.

2.The learned counsel appearing for the writ petitioner placed reliance of this Court reported in *(2010) 255 ELT 161 (Rajam Industries (P) Ltd vs. Addl. D.G., D.C.E.I., Chennai)*. The legal issues arising in the present cases and in the said decision are one and the same. This Court chose to set aside the revised assessment orders with liberty to the authority to proceed afresh either after the adjudication process by the Excise Department gets completed if any fresh material is found This Court is however of the view instead of quashing the impugned pre-assessment notices, the same can be directed to be kept in abeyance, till the adjudication by the Central Excise Department gets completed.

3.These writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(W)

/True Copy/

Sub-Assistant Registrar

To

The Assistant Commissioner (CT) (FAC),
Office of the Assistant Commissioner(CT),
Sivakasi-1.

+4 ccS to M/s.S.Karunakaran, Advocate, SR.Nos.44459 to 44462

skm
RL/6C/2P/KK/SAR1/9/2/2018

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