BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.2853 to 2858 of 2018
and
WMP(MD)Nos.3026 to 3031 of 2018

TVL. PRABHAT RESOURCES LTD,
REP.BY ITS DIRECTOR
DINESH SHIVGAN PATEL ... PETITIONER IN WP(MD).NO.2853/18

TVL.SRIDHAR WOOD INDUSTRIES,
REP BY ITS PARTNER MR.DINESH SHIVGAN PATEL,
1/810, COURTALLAM ROAD,
PIRANOOR BORDER,
SHENCOTTAH - 627 809,
TIRUNELVELI DISTRICT. ... PETITIONER IN WP(MD).NO.2854/ 2018

TVL.PATIDAR WOOD WORKS
REP. BY ITS PARTNER
DINESH SHIVGAN PATEL,
1/810, COURTALLAM ROAD,
PIRANOOR BORDER,
SHENCOTTAH 627 809 ... PETITIONER IN WP(MD).NO. 2855/ 2018

TVL.SURYA TIMBER TRADERS,
REP.BY ITS PARTNER MR.DINESH SHIVGAN PATEL,
1/810, COURTALLAM ROAD,
PIRANOOR BORDER,
SHENCOTTAH-627 809. ... PETITIONER IN WP(MD).NO. 2856/ 2018

TVL.PRABHAT SAW MILL,
REP.BY ITS PARTNER MR.DINESH SHIVGAN PATEL,
1/810, COURTALLAM ROAD,
PIRANOOR BORDER.
SHENCOTTAH-627 809. ... PETITIONER IN WP(MD).NO. 2857/ 2018

TVL.GAJANAND WOOD PRODUCTS
REP. BY ITS PROPRIETOR MR.SHIVGAN K.PATEL,
1/810, COURTALLAM ROAD,
PIRANOOR BORDER,
SHENCOTTAH 627 809 ... PETITIONER IN WP(MD).NO. 2858/ 2018

Vs.

1. The State Tax Officer,
   Shencottah Assessment Circle,
   Piranoor Border,
   Shencottah - 627 809. ... 1st Respondent (in all Wps)

2. The Assistant Commissioner
   (S.T.) FAC,
   O/o. The Assistant Commissioner (CT),
   Tuticorin. ... 2nd Respondent
   in WP(MD).Nos.2853,2855,2856,2857,2858/2018

Prayer in W.P(MD)Nos.2853 to 2858 of 2018 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records in the files of the second respondent in TIN/33275700795/16-17 dated 13.11.2017,TIN/33935701240/16-17 dt.06/09/2017 ,TIN/33275700795/16 - 17 dated 13.11.2017, TIN/33625700392/16-17 dated 13/11/2017 , TIN/33805700293/16-17 dated 13/11/2017 ,TIN/33665701146/16 - 17 dated 13.11.2017 respectively and quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to the law.

For Petitioner
in all writ petitions : Mr.D.Vijayakumar
For Respondents
in all writ petitions : Mr.K.Saravanan,
Government Advocate

COMMON ORDER

The petitioner is a dealer in timber and timber logs. They are registered as an assessee with the first respondent. The petitioners as registered dealers have been reporting their turn over every month. The cases on hand pertain to the assessment year 2016-17. The department has accepted the turnover. The petitioners have to remit tax, based on their own returns. In this case, no action has been taken under Section 27 of the Tamil Nadu Value Added Tax Act, 2006. There is no re-opening of the assessment as reported by the petitioner. The present demand is based only on the petitioner's own returns. All that the impugned communications state is that if the tax arrears running to the respective sums of money for the year 2016-17 is not remitted within 7 days, action will be initiated under the Revenue Recovery Act.

2.It is now submitted by the learned Government Advocate appearing for the respondents in view of the huge amount of tax arrears payable by the petitioners, they have resorted to attachment of properties.

3.The petitioners in this writ petitions have raised the ground of jurisdiction. According to them, the impugned notifications issued by the State Tax Officer are legally incompetent. But, this ground is not sustainable. Section 45(6) of the Tamil Nadu Value Added Tax Act, 2006 states that any amount which a person is required to pay to the assessing authority or for which he is personally liable to the assessing authority under this section shall, if it remains unpaid, be a charge on the properties of the said person and may be recovered as if it were an arrear of land revenue.

4.The second respondent in WP(MD)No.2853 of 2018 who appeared in person relying on Tamil Nadu Value Added Tax Manual submitted that if a defaulter does not own any property in the area in which the tax arrears have to accrued, and enquiries show that he has properties in other districts, the Assistant Commissioner of the district can address the Assistant Commissioners of other district where the defaulter own properties, to effect collection.

5.The procedure to be followed has also set out in the said manual. It is this procedure that has been followed by the second respondent. By no stretch of imagination, can the impugned notice be described as one lacking in jurisdiction. The respondents have only chosen to enforce the admitted liability.

6.There is absolutely no merit in all these writ petitions. These writ petitions are stand dismissed. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1. The State Tax Officer,
   Shencottah Assessment Circle,
   Piranoor Border, Shencottah - 627 809.

2. The Assistant Commissioner (S.T.) FAC,
   O/o. The Assistant Commissioner (CT),
   Tuticorin.

+ 6 ccs TO Mr.D.Vijayakumar , Advocate in SR No. 51485,51963
+ 1 cc TO The Special Government Pleader in SR No. 51923

skm
AE/SKN RSK/SAR1/05.07.2018/3P/10C

W.P(MD)Nos.2853 to 2858 of 2018
and
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