BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.03.2018**

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) Nos. 4187 to 4191 of 2018
and
W.M.P(MD)Nos.4335 to 4339 of 2018

Tvl. Green Star, rep. by its
Proprietor : V.Reghupathy
4/W, East Street, B.Ammapatti,
Bodinayakkanur.
.. Petitioner in all petitions

Vs.

The Assistant Commissioner (CT)
Bodinayakkanur Assessment Circle,
Bodinayakkanur.
.. Respondent in all petitions

COMMON PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the file of the respondent in TIN : 33025081474/2011-12, 2012-13, 2013-14, 2014-15 and 2015-16 dated 19.01.2018 respectively quash the same and further direct the respondent to pass order afresh after affording an opportunity to the petitioner to file their objection against the show-cause notice dated 14.11.2017 and after verifying the books of accounts of the petitioner.

In all wps;

For petitioner : Mr.A.Chandrasekaran

For respondent : Mrs.S.Srimathy
Special Government Pleader

COMMON ORDER

The same petitioner has filed these writ petitions in respect of different assessment years. The petitioner is an assessee registered with the respondent. The petitioner had taken contract from Chennai Corporation for maintaining Corporation Park.

2.The learned counsel appearing for the petitioner has produced the tender conditions in terms of which the contract of maintanance of the park was awarded. The commercial activities carried out by the writ petitioner in terms of those contract are exempted under the TN VAT Act. But the respondent after obtaining data from the Chennai Corporation proceeded on the premise that the writ petitioner was engaged in civil construction. The impugned order of assessment was made on that basis. The materials now produced before the Court *prima facie* indicate that the very foundation, on which the impugned orders rest are non existent. The writ petitioner had brought about the situation entirely on his own. He was issued with a show cause notice. Instead of responding to it appropriately, the writ petitioner chose to sleep over the same. In any event, interest of justice requires that when a person who is not really liable to pay tax is erroneously saddled with such a liablity, this Court would be justified in interefering with the same. Since the materials produced by the petitioner now prima facie indicate that the petitioner was not liable to pay any tax, the orders impugned in these writ petitions are quashed and the matter is remitted to file of the respondent. The respondent shall hear the petitioner and after considering the materials produced by him, pass orders afresh in accordance with law.

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

Sd/-

Assistant Registrar(CSIII)

/True Copy/

Sub Assistant Registrar

skn

To:

The Assistant Commissioner (CT)
Bodinayakkanur Assessment Circle,
Bodinayakkanur.

+1 CC TO Mr. A.CHANDRASEKARAN , Advocate, Sr.No. 56494
+1cc to M/S SPECIAL GOVERNMENT PLEADER, Sr.No. 56932,56933,56934
JAM/28/05/2018/ SKN-RSK/SAR 3/ 2P-4C

ORDER MADE IN
W.P. (MD) Nos. 4187 to 4191 of 2018
and
W.M.P(MD)Nos.4335 to 4339 of 2018
20.03.2018