IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.10908 and 10909 of 2012
and
M.P.Nos.2 and 2 of 2012

A.Saraswathi ...Petitioner in WP.No.10908 of 2012

T.Nethaji ...Petitioner in WP.No.10909 of 2012

Vs

The Assistant Commissioner (CT),
Commercial Taxes Building,
Vaniyambadi,
Vellore District. ... Respondent in both the WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Certiorarified, to call for the records of the respondent in Na.Ka.A3 4312/2012 and Na.Ka.A3 4313/2012 respectively published in Dinathanthi on 26.03.2012, quash the same.

(In both WPs)
For Petitioner : Ms.Nishanshiya
for Mr.S.Ravee Kumar

For Respondent : Mr.V.Haribabu
Additional Government Pleader (Tax)

COMMON ORDER

The petitioners in these cases have challenged an auction notification bringing to sale the properties at Govindapuram Madura Kanavai Pudhur Village measuring an extent of 1.28.0 hectare in S.No.86/2 and Kothakottai Village measuring an extent of 1.47.5 hectare in S.No.52/1 B.

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2.Admittedly assessments in terms of the provisions of the Central Sales Tax Act, 1959 have been passed on 29.06.2001 for the years 1994-1995 and 1995-1996, and 23.03.2001 for the period 1996-1997, as a result that arrears of Tax amounting to Rs.3,88,359/- and Rs.4,74,111/-, amounting in toto to Rs.8,61,470/- (WP.No.10908 of 2012) and Rs.2,17,712/- and Rs.3,26,570/- amounting in all to Rs.5,44,282/- (WP.No.10909 of 2012) are outstanding. These assessments have become final. The petitioners are dealers engaged in the manufacture and sale of Hand Woven Druggets which, according to it are exempted from the purview of sales tax, being a village industry product exempted under the Khadi and Village Industries Commission Act, 1956.

3.Admittedly, the orders of assessments, passed as early as in 2001, have not been challenged by the petitioners by way of appeal or otherwise. While this is so a learned Single Judge of this Court in M/s.Y.N.Enterprises vs. The Commercial Tax Officer in W.P.Nos.17406 to 17411 of 2001, by order dated 27.07.2010, while considering a similar issue as before me, has held that Hand Woven Druggets would be exempt from payment of tax under the General Sales Tax enactment. Taking benefit of this decision passed in the year 2001, the petitioners have come forthwith the present writ petitions in the year 2012, seeking a similar relief as granted by this Court in the case of the other dealers.

4.The orders of assessments passed as early as 2001 have become final and this Court cannot interfere with recovery proceedings initiated in respect of orders of assessments that are unchallenged. There is a delay of two years in filing the writ petitions, even after the order of the learned single Judge on 27.07.2010.

5.My conclusion is also supported by two decisions of this Court in Sri Trans Technics vs. Commissioner of Commercial Taxes, Chennai (131 STC 1) and Commissioner of Sales Tax vs. U.P. vs. Bharat Bone Mills (6 VST 275). There is no merit in these writ petitions and the same are dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

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Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

vs

To

The Assistant Commissioner (CT),
Commercial Taxes Building,
Vaniyambadi,
Vellore District.

+1cc to Mr.S.Ravee Kumar, Advocate, S.R.No. 79928
+1cc to the Government Pleader, S.R.No. 80343

W.P.Nos.10908 and 10909 of 2012
and
M.P.Nos.2 and 2 of 2012

JP(CO)

GN(28/11/2019)

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