IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 26.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.15141 of 2007

Rural Uplift Centre,
Reg.No.31/81,
Rep. by its Secretary,
Adv.A.Maria James,
'Deepam', Thumpali,
Irenipuram Post,
Kanyakumari District. ...Petitioner

Vs

1. Government of Tamil Nadu,
Rep. by its Secretary to Government,
Commercial Taxes and Registeration
(B2) Department,
Fort St.George,
Chennai - 600009.

2. Commissioner of Re-habilitation,
Government of Tamil Nadu,
Ezhilagam, Chennai - 600008.

3. The District Collector,
Tirunelveli District,
Tirunelveli - 627009. ...Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the proceedings in Letter No.5972/B2/2007-1, dated 22.03.2007, on the file of the 1st respondent, quash the same and direct the 1st respondent to extend the Tax benefit granted under G.O.Ms.No.63, Commercial Taxes and Registeration (B2) Department, dated 12.07.2006, upto 31.03.2007.

For Petitioner : No Appearance

For Respondents: Mr.A.Hariharan, AGP
for R1 & R2
Mr.A.Zakir Hussain, GA
for R3

O R D E R

The petitioner herein claims to be a NGO carrying out Tsunami rehabilitation activities. They are not registered dealers under the Tamil Nadu General Sales Tax Act. The Government of Tamil Nadu in G.O.Ms.No.48, dated 29.01.1995, had released the comprehensive relief packages for rehabilitating Tsunami affected fishermen. In G.O.Ms.No.63, dated 12.07.2006, the payment of tax to the dealers for supply of Out Board Motors and other accessories used for country boats and mechanized boats were exempted between 01.04.2005 and 31.03.2006. When the petitioner herein had sought for extension of the exemption period over and above 31.03.2006, by a letter dated 14.11.2006, the respondents had mentioned the expiry of the exemption as 31.03.2007, instead of 31.03.2006. The expiry of the exemption date mentioned as 31.03.2007 is now mentioned to be a typographical error, through a letter dated 22.03.2007 and that the G.O.Ms.No.63 dated 12.07.2006, provides for exemption only till 31.03.2006. The letter dated 14.11.2006, in which the typographical error had crept in, is under challenge in the present writ petition, with a consequential prayer to extend the exemption till 31.03.2007.

2. The prayer sought for in the present writ petition cannot be maintained for 2 reasons. Firstly, the petitioner herein is not a dealer registered under the TNGST Act and therefore, cannot seek for such exemption, since the benefits under the Government Order is extended only to such registered dealers. Secondly, the letter dated 22.03.2007 is only a clarification of the earlier letter dated 14.11.2006, which reiterates the period of exemption specified in G.O.Ms.No.63, dated 12.07.2006. If at all the petitioner is aggrieved against the expiry of the exemption period in the Government Order, he ought to have challenged the exemption clause in the Government Order and challenging the clarification letter dated 23.03.2007, will not entitle him to claim for exemption over and above the period granted under the Government Order. Nevertheless, to claim such an exemption, the petitioner requires to be a registered dealer, which registration is conspicuously absent.

3. For all the foregoing reasons, I do not find any reason to interfere with the impugned order. Accordingly, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Secretary to Government,
   Commercial Taxes and Registeration
   (B2) Department,
   Fort St.George,
   Chennai - 600009.

2. Commissioner of Re-habilitation,
   Government of Tamil Nadu,
   Ezhilagam, Chennai - 600008.

3. The District Collector,
   Tirunelveli District,
   Tirunelveli - 627009.

+1cc to Special Government Pleader, Sr.No.53627
+1cc to the Government Pleader, S.R.No.53422

W.P.No.15141 of 2007

CP(CO)
CS/29/07/2019