

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. Nos. 10915 & 10916 of 2008
and
M.P. Nos. 2 & 2 of 2008

Tvl. Sri V.S. S. & Co.,
Represented by its Proprietor,
V.Subbaiyan,
9/10, Urumandampalayam,
G.N. Mills P.O.,
Coimbatore - 29. Petitioner in both W.Ps

Vs

1. The Special Committee under Section 16-D
of the Tamil Nadu General Sales Tax Act,
1959, Chepauk, Ezhilagam,
Chennai - 600 005.
2. The Deputy Commercial Tax Officer,
Thudiyalur Assessment Circle,
Coimbatore. Respondents in both W.Ps

Prayer in W.P. No. 10915 of 2008: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the files of the First Respondent in S.C.P. No. 42 of 2007 (CCT)/M3/15581/06 dated 31.08.2007 and connected proceedings of the Second Respondent in CST.578034/03-04 dated 07.07.2005 and quash the same.

Prayer in W.P. No. 10916 of 2008: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the files of the First Respondent in S.C.P. No. 43 of 2007 (CCT)/M3/15582/06 dated 31.08.2007 and connected proceedings of the Second Respondent in CST.578034/02-03 dated 07.07.2005 and quash the same.

For Petitioner (in both W.Ps) : Mr. R. Senniappan

For Respondents (in both W.Ps) : Mr. V. Haribabu
Additional Government Pleader

ORDER

These writ petitions have been filed by the Petitioner seeking for the issuance of Writ of Certiorari, to call for the records on the file of the First Respondent in S.C.P. Nos. 42 (CCT)/M3/15581/06 & 43 of 2007, (CCT)/M3/15582/06 dated 31.08.2007 and connected proceedings of the Second Respondent in CST.578034/03-04 & CST.578034/02-03 dated 07.07.2005.

2. The petitioner has challenged impugned order passed by the Special Committee under Section 16 (D) of the Tamil Nadu General Sales Tax Act, 1959 (Shortly, the TNGST Act) Act which provided for the resolution of dispute before the Special Committee. Though the Petitioner had earlier challenged the Re-assessment Order dated 07.07.2005 in time, but had failed to pre-deposit 25% mandatory the said appeal was not taken up by the Appellate Assistant Commissioner of Commercial Taxes, Coimbatore (First Appellate Authority). In these circumstances, the Petitioner had approached this Court with two writ petitions in W.P. Nos. 5751 and 5752 of 2006 which were withdrawn at the stage of admission with liberty to file petitions under Section 16 (D) of the TNGST Act. The Petitioner thereafter filed application filed under Section 16 (D) of the TNGST Act specifically requested Appellate Commissioner grant personal hearing.

3. According to the Petitioner without granting personal hearing, the impugned order dated 31.08.2007 has been passed by the Special Committee by rejecting the said application.

4. The operative portion of the impugned order reads as under:-

"The concurrence of the Deputy Commissioner (CT), Coimbatore under Rule 15(6) of the Tamil Nadu General Sales Tax Rules 59, was not also obtained before passing the revised orders."

5. Since the order has been passed without hearing the Petitioner, I deem it fit to set aside the impugned order and remit the case back to the Second Respondent (Deputy Commissioner of Commercial Taxes) Officer namely the Assessing Officer to consider and pass a fresh order in accordance with law under the changed scenario in absence of Special Committee. Since the Special Committee does not exist any longer, the Re-assessment Order dated 07.07.2005 challenged in W.P. No. 10916 of 2008 is also set aside and the case is remitted back. Since the matter pertains to the assessment year 2003-2004, the Second

Respondent is directed to pass orders in accordance with law on merits within a period of three months from the date of receipt of a copy of this order, after affording an opportunity of hearing to the petitioner.

6. Both the Writ Petitions stand disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Special Committee under Section 16-D of the Tamil Nadu General Sales Tax Act, 1959, Chepauk, Ezhilagam, Chennai - 600 005.
2. The Deputy Commercial Tax Officer, Thudiyalur Assessment Circle, Coimbatore.

+1cc to Mr.R.Senniappan, Advocate Sr.101213

+1cc to the Special Government Pleader Sr.101814

W.P. Nos. 10915 & 10916 of 2008

and

M.P. Nos. 2 & 2 of 2008

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