IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 01.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.12688 & 9009 of 2010
and
M.P.Nos.1 & 1 of 2010

M/s.TAFE Access Limited,
No.35, Nungambakkam High Road,
Chennai - 600034. ...Petitioner in both WPs

Vs

The Assistant Commissioner (CT),
Valluvarkottam Assessment Circle,
Chennai. ...Respondent in both WPs

PRAYER in W.P.No.12688 of 2010: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the records of the respondent in his proceedings in Entry Tax/1500696/2002-03 and quash the order dated 07.04.2010 passed therein.

PRAYER in W.P.No.9009 of 2010: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the records of the respondent in his proceedings in TNGST/1500696/2002-03/Entry Tax on Vehicles and quash the notice dated 22.03.2010 issued therein.

For Petitioner : Mr.R.L.Ramani, SC
(in both WPs) for Mr.B.Raveendran

For Respondent : Mr.Mohammed Shaffiq, Spl.GP
(in both WPs)

C O M M O N O R D E R

While the reassessment dated 07.04.2010 is under challenge in the writ petition in W.P.No.12688 of 2010, the revision notice dated 22.03.2010, issued under Section 9 of the Tamil Nadu Tax on Entry of Motor Vehicles Act, is under challenge in W.P.No.9009 of 2010. Both the assessment orders pertain to the year 2002-2003.

2. One of the main grounds raised in the both the writ petitions is that, after the original order of assessment was passed on 29.10.2004, a notice under Section 9 of the Tamil Nadu Tax on Entry of Motor Vehicles Act was issued on 08.11.2004, to which the petitioner had given his objections on 08.01.2005. Subsequently, the respondent had issued a revision notice on 22.03.2010, which according to the petitioner is beyond the period of 5 years as contemplated under Section 9 of the Tamil Nadu Tax on Entry of Motor Vehicles Act, 1990.

3. The learned Special Government Pleader raised his objections stating that, since the original notice was issued on 08.11.2004 itself, the machinery was set in motion and therefore, by taking into account the earlier notice issued in 2004, the reassessment proceedings is deemed to be initiated within a period of 5 years.

4. The learned Senior Counsel appearing for the petitioner would substantiate on this aspect by submitting that, in the earlier notice dated 08.11.2004, specific objections were raised stating that though the Canteen Stores Department had placed orders on Tata Motors, the same is necessarily required to be routed only through the authorised dealer like the petitioner and therefore, the demand of entry tax cannot be sustained, which aspect has not been considered by the respondent herein.

5. As rightly pointed out by the learned Senior Counsel for the petitioner, when the respondent had chosen to rely upon the notice dated 08.11.2004, for the purpose of overcoming the limitation prescribed under Section 9, the present impugned order cannot be sustained, without considering the objections raised in the first notice also. Since the first notice forms a part of the reassessment and that when the objections raised by the petitioner on 08.01.2005 to the notice issued on 08.11.2004 has not been considered, this Court is of the view that the order itself is liable to be set aside.

6. In the light of the above observations, the impugned order dated 07.04.2010 is set aside. Consequently, the petitioner is granted liberty to file his additional objections to the revision notice dated 22.03.2010 before the respondent herein, within a period of 15 days from the date of receipt of

copy of this order. On receipt of such objections, if any, the respondent shall consider the objections, after giving due opportunity of personal hearing to the petitioner and pass appropriate orders, in accordance with law, as expeditiously as possible.

7. With the above observations, both the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

hvk

To
The Assistant Commissioner (CT),
Valluvarkottam Assessment Circle,
Chennai.

+2cc to Mr.B.Raveendran, Advocate SR.No.66105, 66108

+1cc to Special Government Pleader (Taxes)SR.No.66481

W.P.Nos.12688 & 9009 of 2010
and
M.P.Nos.1 & 1 of 2010

VG I(CO)
GMY(28/08/2019)