IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 08.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.4849 to 4851 of 2011
& MP.Nos.1 & 1 of 2011

M/s. Rathna Fan House Pvt Limited,
Rep. by its Managing Director,
Mr.K.S.Krishnamurthy,
No.36/1, Rajabather Street,
T.Nagar, Chennai - 600 0017. ...Petitioner
(In all WPs)

Vs

1. The Assistant Commissioner (CT),
T.Nagar (North) Assessment Circle,
Taluk Office Complex, IIIrd Floor,
No.46, Greenways Road,
Chennai - 600 028.

2. The State of Tamil Nadu,
Rep. by its Secretary,
Commercial Taxes and
Registration Department,
Fort St.George,
Chennai - 600 009. ...Respondent
(In all WPs)

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the files of the first respondent herein in TIN.No.33531521342/2007-2008, 2008-09 & 2009-10 dated 30.12.2010, quash the same as illegal.

For Petitioner : Mr.V.Sundareswaran (In all WPs)

For Respondents: Mrs.Dhanamadhri,
Govt.Advocate (in all WPs)

COMMON ORDER

When the Government had introduced Section 19(20) of the Tamil Nadu VAT Act, which was made applicable in cases where the dealer has sold goods at a price lesser than the price of the goods purchased by him. The amount of the input tax accrued over and above of the output tax of those cases were provided to be reversed. The provision came to be clarified by the Hon'ble Apex Court in the decision in the case of Jayam & Co. Vs. Assistant Commissioner & Another, reported in (2016) 96 VST 1, to the effect that the provision cannot have retrospective effect and thereby a right has accrued in favour of the the dealers, in respect of purchase and sales effected between 01.01.2007 to 19.08.2010.

2. The relevant period in the instant case is for the assessment years 2007 - 2008, 2008 - 2009 and 2009 - 2010. Apparently, in view of the clarification issued in the case of Jayam & Co. Vs. Assistant Commissioner & Another, by the Hon'ble Apex Court, the impugned notice insofar as it relates to these assessment years, cannot be sustained.

3. The petitioner herein has also raised several other grounds challenging the impugned notice. In view of the decision of the Hon'ble Apex Court, that the amended provision cannot have retrospective effect, it would be appropriate to direct the first respondent herein, to revisit the impugned notice by way of fresh proceedings. While such an exercise is made, it would be open to the petitioner herein, to raise all the grounds made by him in the present writ petition, during the course of personal hearings.

4. In the light of the above observations, the matter is remanded back to the first respondent herein, who shall initiate a fresh proceedings, based on the observations made in the present writ petition, after giving due opportunity of personal hearing to the petitioner herein. Such an exercise of receiving the objections by the petitioner shall be done within a period of 15 days from the date of receipt of a copy of this order. On receipt of such objections, the first respondent herein shall pass final orders within a period of 12 weeks from the date of receipt of a copy of this order.

5. Accordingly, the writ petitions are disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

Pkn.

To

1. The Assistant Commissioner (CT),
T.Nagar (North) Assessment Circle,
Taluk Office Complex, IIIrd Floor,
No.46, Greenways Road,
Chennai - 600 028.

2. The State of Tamil Nadu,
Rep. by its Secretary,
Commercial Taxes and
Registration Department,
Fort St.George,
Chennai - 600 009.

+1 cc to Mr.V.Sundareswaran, Advocate, S.R.No.57155

+1 cc to the Government Pleader, S.R.No.57667

W.P.Nos.4849 to 4851 of 2011

NRL(CO)
SSM(27/08/2019)