IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2019

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.Nos.817 to 823 of 2011
M.P.Nos.1,2,2,2,2,2 & 2 of 2011

C.Vijay Kumar ... Petitioner in all the above Writ Petitions

Vs

1. The Joint Commissioner (North),
   Office of the Joint Commissioner of
   Commercial Tax,
   Thousand Lights, Chennai-6.

2. The Asst. Commissioner of Commercial Tax,
   Office of the Asst. Commissioner,
   Harbour-V, Assessment Circle,
   Chennai - 600 001.

... Respondents in all the above Writ Peitions

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 mandamus, calling for the records relating to proceedings of the second respondent in R.C.No.2260/1995/A3 dated 16.12.10 in so far as it relates to the demand of tax under Tamil Nadu General Sales Tax Act for the Asst. Years 1990-1991, 1991-92, 1992-93, 1993-94, 1994-95, 1995-96 and 1992-93 respectively quash the same and direct the respondents to accept the application made under Sec.5(1) of Tamil Nadu Sales Tax (Settlement Arrears) Act 2010 dated 25.8.10 for the Assessment Year 1990-1991, 1991-92, 1992-93, 1993-94, 1994-95, 1995-96 and 1992-93.

(In all WPs)
For Petitioner : Mr.R.Thiagarajan, Senior Counsel for Mr.R.N.Amarnath

For Respondents : Mr.M.Hariharan Government Advocate

COMMON ORDER

These matters challenge notices issued in terms of the Tamil Nadu Sales Tax (Settlement of Arrears Act and Rules) ('Scheme') dated 26.05.2010. Section 5 of the Scheme provides for an assessee to file an application for Samadhan within three months from date of commencement of the Act. In this case, the applications have been filed on 25.08.2010. Section 6 states that the designated authority shall verify the correctness of the particulars furnished in the application and determine the amount payable at the rates specified in Section 7. The designated authority is defined in Section 2(c) to mean an authority appointed under Section 3. Section 3 in turn states that the designated authority shall be the authority who exercises jurisdiction over such area or areas as the Government specifies in the Notification. Admittedly, the appropriate authority in this case is the Joint Commissioner (Sales Tax) North. The impugned notices have however issued by the Assistant Commissioner (Commercial Taxes) Harbour-V Assessment Circle.

2.The learned Government Advocate appearing for the respondents also fairly concurs with this position in law and on facts.

3.In the light of the apparent error in the assumption of jurisdiction, the impugned notices are liable to be set aside and I do so.

4.What remains is that even during the pendency of the present writ petitions and despite there being an order of stay granted by this Court on 19.01.2011, the 1st respondent has proceeded to issue a notice dated 08.09.2011 proposing the rejection of the Samadhan applications followed by an order dated 14.11.2017 rejecting the same.

5.The records were called for and the concerned officers directed to be present before this Court.

6.Today the learned Government Advocate, on instructions from the officials who are present in the Court, undertakes that the order dated 14.11.2017 will be withdrawn forthwith, since it has been passed even during the subsistence of order of stay passed by this Court.

7.In response to notice dated 08.09.2011, a copy of which has been supplied to the learned counsel on record for the petitioner, the petitioner will appear before the Joint Commissioner (Sales Tax) North (R1) on (Monday) 30.09.2019 at 10.30 a.m. and an order shall be passed either rejecting/ accepting the Samadhan application in accordance with the provision of the Scheme within a period of four weeks thereafter. No further hearing notice need be issued to the parties in this regard.

8.These writ petitions are disposed in the aforesaid terms. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

vs

To

1. The Joint Commissioner (North),
   Office of the Joint Commissioner of
   Commercial Tax,
   Thousand Lights, Chennai-6.

2. The Asst. Commissioner of Commercial Tax,
   Office of the Asst. Commissioner,
   Harbour-V, Assessment Circle,
   Chennai - 600 001.

3. The Joint Commissioner (Sales Tax)
   North(R1), Chennai.

+1cc to Mr.R.N.Amarnath, Advocate, S.R.No.80066
+1cc to the Special Government Pleader(T), S.R.No.80345

W.P.Nos.817 to 823 of 2011
M.P.Nos.1,2,2,2,2,2 & 2 of 2011

SAI(CO)
CS/27/09/2019