

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.03.2019

Coram

The Honourable DR.JUSTICE ANITA SUMANTH

W.P. Nos.7890, 7896, 7902, 7907, 7913 & 7917 of 2019
& W.M.P.Nos.8503, 8505, 8507, 8508, 8510, 8511, 8516, 8517,
8520, 8521, 8526, 8529, of 2019

M/s. Technova Imaging Systems Ltd.,
229 TTK Road, Alwarpet, Chennai-18

....Petitioner

/Vs/

1. The Assistant Commissioner (CT)
Mylapore Assessment Circle, 46,
Greenways Road, Chennai 28

2. The Appellate Deputy Commissioner (CT)
Chennai-EAST, 3rd Floor, PAP-JM Building Annexe,
No:1, Greams Road, Chennai 600008

...Respondents

P R A Y E R: WRIT PETITIONs under Article 226 of the Constitution in the nature of Certiorarified Mandamus calling for the records of the petitioner on the files of the 2nd respondent herein in TIN/33090700285/2007-08/2009-10/2010-11/2011-12/2012-13/2013-14 and quash the impugned proceedings in Appeal No:AP/(VAT)/63/64/76/77/78/165 of 2014 dated 12.10.2018 as illegal and contrary to the provisions of the TNVAT Act 2006 and further direct the 1st respondent to consider the assessment in accordance with the provisions of Sec 3, 5, and 18 TNVAT Act 2006 after granting due and sufficient opportunity to the petitioner in accordance with law as laid down in order of this Court in W.P.No793 of 2012 dated 09.01.2018.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mr.Mohammad Shaffiq

Special Government Pleader

O R D E R

Heard Mr.Adithya Reddy, learned counsel for the petitioner and Mr.Mohammad Shafiq, learned Special Government Pleader for the respondents.

2. The writ petitioner assails an order passed by the

Deputy Commissioner, Chennai East, in respect of the periods 2007-08, 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14 dated 12.10.2018.

3. A memo has been filed by the petitioner as follows:

1. The above Writ Petition was filed challenging the order of the 2nd respondent dated 12/10/2018 which pertained to the assessment years 2007-08, 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14.

2. The 2nd respondent dealt with the following issues in the impugned order:-

a) Levy of tax on sales made to 100% EOUs
b) Reversal of Input tax credit on account of interstate sales

c) Levy Tax on Annual Maintenance Contract

3. Of the above issues, the Petitioner seeks leave of this Hon'ble Court to withdraw the Writ Petition to pursue alternate remedy with respect to issues (b) and (c). The Hon'ble Court may kindly grant sufficient time to the Petitioner to pursue such remedy.

In view of the above it is therefore prayed that this Hon'ble Court may be pleased to permit the Petitioner to withdraw the above Writ Petitions with liberty to pursue alternate remedy with respect to all issues except the issue relating to "Levy of tax on sales made to 100% EOUs" and thus render justice.

3. In the light of the aforesaid memo, the writ petition is dismissed as withdrawn, as regards the issues relating to reversal of input tax credit on inter state sales and levy of tax on annual maintenance contract, the petitioner is permitted to file an appeal before the Sales Tax Appellate Tribunal as regards the aforesaid two issues within a period of four(4) weeks from today.

4. As far as the issue relating to levy of tax on Sales made to 100% Export Oriented Units, wherein the appellate authority concludes that the sales are to be treated as exempt sales, no notice has been issued to the petitioner in this regard. Learned SGP states on instructions that the petitioner will be put to notice about the proposal to treat the sales as exempt sales and not zero rated sales and the matter will be decided thereafter. This portion of the impugned order is thus set aside. A proposal will be issued by the Deputy Commissioner to this effect within a period of two (2) weeks and the matter will be taken up for adjudication and decided after

affording suitable opportunity to the petitioner, both personal as well as written, within a period of six(6) weeks from today.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To,

1. The Assistant Commissioner (CT)
Mylapore Assessment Circle, 46,
Greenways Road, Chennai 28
2. The Appellate Deputy Commissioner (CT)
Chennai-EAST, 3rd Floor, PAP-JM Building Annexe,
No:1, Greams Road, Chennai 600008

+1cc to Mr. K.Venkatasubramanian, Advocate, S.R.No. 29027

+1cc to the Special Government Pleader, S.R.No. 30033

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CP (CO)
GN (29/05/2019)

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