IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.Nos.4228, 4229, 4230 & 4231 of 2017
and
W.M.P.Nos.4384, 4385, 4386 & 4387 of 2017

M/s.Brand Eyes Distributors pvt.Ltd.,
Rep.by its Director,
Vaibhav Complex 4th Floor,
No.12, Smith Road,
Chennai – 600 002. ..Petitioner in all Wps.

Vs.

The Assistant Commissioner (CT) – FAC,
Anna Salai Assessment Circle,
Chennai – 600 006. ..Respondent in all Wps.

Common Prayer: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the impugned order of re-assessment in TIN 33710600907, pertaining to the years 2012-13, 2013-14, 2014-15, 2015-16 dated 18.01.2017, from the files of the respondent herein, quash the same.

For Petitioner : M/s.Aparna Nandakumar

For Respondent : Mrs. Dhanamadhri
Government Advocate.
..in all WPs.

COMMON ORDER

In the orders impugned in the present writ petitions, reliance has been placed before the authority for clarification and advance ruling for the rate of tax on mobile phones, parts and accessories thereof was originally taxable at 14.5%.

2. The learned counsel for the petitioner would rely

upon the subsequent advance ruling dated 07.02.2017, wherein it is held that all the headphones are classifiable as Information Technology product falling under Entry 68 (2) (c) of Part-B of First Schedule to the TNVAT Act, 2006 and thereby liable to VAT at 5%.

3. Admittedly, this Advance Ruling dated 07.02.2017, has been made after the impugned orders have been passed and as such, the orders cannot be strictly found fault with. Nevertheless, if the petitioner is of the view that the subsequent advance ruling dated 07.02.2017, would enure to their favour the appropriate action would be taken to remit the matter back to the respondent herein for fresh consideration by giving an opportunity to petitioner to put-forth their objections.

4. In the light of the above observations, the proceedings in TIN 33710600907, pertaining to the years 2012-13, 2013-14, 2014-15, 2015-16 dated 18.01.2017, on the file of the respondent herein, is set aside and the matter is remanded back to the respondent for fresh consideration. The petitioner is also at liberty to raise additional objections and also submit any other documents which are relied upon before the respondent herein. On receipt of such objections and documents, the respondent herein shall consider the same on its own merits and pass appropriate orders in accordance with law, after giving due opportunity on personal hearing to the petitioner. The respondent shall endeavour to complete such proceedings as expeditiously as possible, in any event, within a period of three months from the date of receipt of a copy of this order.

5. Accordingly, all the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Pns

To
The Assistant Commissioner (CT) - FAC,
Anna Salai Assessment Circle,
Chennai - 600 006.

+1cc to Mr.Aparna nandakumar , Advocate SR.No. 63561
+1 cc to Spl Government Pleader Sr.No. 63953

W.P.Nos.4228, 4229, 4230 & 4231 of 2017
and
W.M.P.Nos.4384, 4385, 4386 & 4387 of 2017

vba (CO)
A.SK(05/09/2019)
A.SK(20/09/2019)