BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2019

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THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)Nos.13473 to 13478 & 13561 to 13564 of 2017
and
W.M.P(MD)Nos.10545 to 10550 of 2017 & 10609 to 10612 of 2017

Karaikudi Carpentary Blacksmithy
Multipurpose Indul Units,
Rep. by its Proprietor, N.Manivannan,
Shed.No.S-12, Sidco Indl Estate,
Devakottai Rastha, Sivagangai. ... Petitioner in All WPs

Vs.

The Commercial Tax Officer,
Office of Commercial Tax Officer,
Tiruppathur Assessment Circle,
Tiruppathur,
Sivagangai District. ... Respondent in All WPs

Prayer in WP(MD). 13473/ 2017 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the impugned notice TIN 3395 5501135/2007-08 dated 07.07.2017 issued by the respondent for the assessment year 2007-2008 and quash the same.

Prayer in WP(MD). 13474/ 2017 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the impugned notice dated 07.07.2017 issued by the respondent for the assessment year 2009 10 and quash the same and pass such other or further orders as this Honble court may deem fit and proper in the facts and circumstances of the case and thus render justice.

Prayer in WP(MD). 13475/ 2017 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records relating to the impugned notice dated 07.07.2017 issued by the respondent for the assessment year 2014-15 and quash the same.

Prayer in WP(MD). 13476/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to the impugned notice TIN 3395 5501135 dated 07.07.2017 issued by the respondent for the assessment year 2013-14 and quash the same.

Prayer in WP(MD). 13477/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the impugned notice dated 07.07.2017 issued by the respondent for the assessment year 2012-2013 and quash the same.

Prayer in WP(MD). 13478/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records relating to the impugned notice dated 07.07.2017 issued by the respondent for the assessment year 2011-2012 and quash the same.

Prayer in WP(MD). 13561/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to the impugned notice in TIN 3395 5501135/2008-2009 dated 07-07-2017 issued by the respondent for the assessment year 2008-09 and quash the same.

Prayer in WP(MD). 13562/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to the impugned notice TIN 3395 5501135/2010-11 dated 07-07-2017 issued by the respondent for the assessment year 2010-11 and quash the same.

Prayer in WP(MD). 13563/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to the impugned notice TIN 33955501135/2015-16 dated 07-07-2017 issued by the respondent for the assessment year 2015-16 and quash the same.

Prayer in WP(MD). 13564/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to the impugned notice in TIN 3395 5501135/2016-2017 dated 07-07-2017 issued by the respondent for the assessment year 2016-17 and quash the same.

For Petitioner : Mr.AL.Kannan

For Respondents : Mrs.J.Padmavathy Devi,
Special Government Pleader.

COMMON ORDER

Heard Mr.AL.Kannan, learned counsel for the petitioner and Mrs.J.Padmavathi Devi, learned Special Government Pleader for the respondent.

2.These Writ Petitions challenge impugned notices for the period 2007-08 to 2015-16, all dated 07.07.2017, issued under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act').

3.The notices have been issued pursuant to a surprise inspection conducted in the premises of the petitioner by the Enforcement wing of the Commercial Taxes Department on 22.02.2017. The main defect alleged is a difference between the sales turnover as per the monthly returns viz-a-viz the sales turnover reflected in the profit and loss account, quantified at 4%. The respondent has called upon the petitioner to submit its objections to the proposal within 15 days from date of receipt of the notice. Admittedly, no objections have been filed to the impugned notices and the petitioner has, on the other hand, approached this Court by way of the present Writ Petitions.

4.Learned counsel for the petitioner relies on the sales tax clearance certificate issued by the respondent in regard to the years 2006-10, 2009-13, 2013-15 and 2015-16, wherein, turnover from Khadi and Village Industries Board has been exempted from tax in terms of Section 15 of the Act by the Commercial Tax Officer.

5.A counter has been filed by the respondent stating that verification of the financials of the petitioner revealed that sales tax was being collected on the sales of iron and steel furniture from 2007-08 to 2016-17 and it is only in respect of such collections that the impugned proceedings have been initiated.

6.I find no merit in this Writ Petition. The exemption granted to the petitioner relates only to the products made by Khadi and Village Industries such as hand pounded rice, khadi, oil-can, khandaari, bookeeping, village pottery, fibre and other natural products, in the light of of G.O.Ms.No.272, Revenue Department dated 11.02.1967. Exemption thus cannot be claimed by the petitioner in regard to the turnover from other activities and the stand of the petitioner that the exemption granted is absolute and would cover all products sold by it, is rejected as in my considered view, the purpose of exemption is certainly not to grant a benefit to the turnover from sale of iron and steel furniture.

7.The impugned communications are notices and the petitioner, in approaching this Court without replying to the same, has pre-empted the process of adjudication. I am thus of the considered view that these Writ Petitions are premature and the same are dismissed. However, liberty is granted to the petitioner to file its replies to the notices within a period of three weeks from today. Such reply, if filed within the timelines as aforesaid, will be considered by the Assessing Officer and orders of Assessment be passed on merits and in accordance with law, within a period of four weeks thereafter, after hearing the petitioner. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

The Commercial Tax Officer,
Office of the Commercial Tax Officer,
Tiruppathur Assessment Circle,
Tiruppathur,
Sivagangai District.

W.P(MD)Nos.13473 to 13478
& 13561 to 13564 of 2017
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