IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. Nos. 38531 to 38534 of 2015
and
M.P. Nos. 2 to 2 of 2015

Tvl. Herbal Supplements Pvt. Ltd.
Rep. by its Managing Director
Mr. J.Paulson Joseph
4/269, Dam Road
Akkarai Kodiveri Post
Kasipalayam Via
Gopichettipalayam Taluk
Erode District. ... Petitioner in all W.P.s

-vs-

The Commercial Tax Officer
Gopichettipalayam Assessment Circle
Gopichettipalayam. ... Respondent in all W.P.s

Prayer in W.P. No. 35831 of 2015:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the respondent in his proceedings in TIN No. 33142961764/2006-2007 dated 26.10.2015 and quash the same.

Prayer in W.P. No. 38532 of 2015:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the respondent in his proceedings in TIN No. 33142961764/2007-2008 dated 26.10.2015 and quash the same.

Prayer in W.P. No. 38533 of 2015:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the respondent in his proceedings in TIN No. 33142961764/2008-2009 dated 26.10.2015 and quash the same.

Prayer in W.P. No. 38534 of 2015:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the respondent in his proceedings in TIN No. 33142961764/2014-15 dated 26.10.2015 and quash the same.

For Petitioner :Mr. K.R.Krishnan (in all WPs)

For Respondent :Mrs. G.Dhana Madhiri
Government Advocate (Taxes) (in all WPs)

C O M M O N O R D E R
(through video conference)

Heard Mr. K.R.Krishnan, Learned Counsel for the Petitioner and Mrs. G.Dhana Madhiri, Learned Government Advocate (Taxes) for the Respondent an perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the order in TIN Nos. 33142961764/2006-2007, 33142961764/2007-2008, 33142961764/2008-2009 and 33142961764/ 2014-2015 dated 26.10.2015 passed by the Respondent, which is evidently a show cause notice calling upon the Petitioner to file his written explanation for the proposal to revise the liability of the Petitioner under Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the 'TNVAT Act' for short) for the assessment years 2006-2007, 2007-2008, 2008-2009 and 2014-2015. The consistent legal position has been reiterated by the Hon'ble Supreme Court of India in Special Director -vs- Mohammed Ghulum Ghouse [(2004) 3 SCC 440], Secretary, Ministry of Defence -vs- Prabhash Chandra Miradha (AIR 2012 SC 2250) and Life Insurance Corporation of India -vs- A.Masilamani [(2013) 6 SCC 530] that a show cause notice cannot be challenged before completion of enquiry and the proceedings cannot be interfered with in the interregnum till it reaches its logical conclusion.

3. Learned Counsel for the Petitioner submits that the Petitioner has invoked the discretion of powers of this Court raising certain jurisdictional issues and that the similar question has been considered in the order dated 19.05.2020 in W.P. Nos. 21982 to 21987 of 2016 passed by this Court.

4. Having regard to the aforesaid legal position, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petitions with liberty to the Petitioner to submit his explanation in response to the show cause notice raising all contentions before the Respondent, so as to deal with the same before coming any ultimate conclusion in the matter.

5. It is incumbent upon the Petitioner to submit his explanation with all supporting documents and comply with the requirements as sought in the impugned order by 30.11.2020. The Respondent shall, after affording full opportunity of hearing,

duly consider the explanation of the Petitioner (including the applicability of the decision of this Court which is relied), deal with the each of the contentions raised and pass reasoned orders on merits and in accordance with law and communicate decision taken under written acknowledgment. In the event of any decision entailing adverse civil consequences, the Petitioner is not precluded from working out its remedies for necessary relief before the proper forum in the manner recognized by law. Though obvious, it is made clear that no opinion has been expressed by this Court on the correctness or otherwise on the merits of the controversy involved in the matter.

6. In the result, these Writ Petitions are dismissed as withdrawn with the aforesaid clarifications. Consequently connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer,
Gopichettipalayam Assessment Circle,
Gopichettipalayam.

+1cc Mr.K.R.Krishnan, Advocate Sr.33906
+1cc to the Special Government Pleader 34143

W.P. Nos. 38531 to 38534 of 2015

gmr[co]
srg 03/11/2020