



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.44760 to 44765 of 2016
and

W.M.P.No.38588 to 38593 of 2016

Sri Sakthi vinayaga Ginning Mills,
Represented by its Partner,
M.Sekar,
No.2/2A-4, Veeriyampatti Village,
Badapalli Post, Uthankarai Taluk,
Krishnagiri - 635 207.

... Petitioner in all W.Ps.

Vs.

The Commercial Tax Officer,
Harur Assessment Circle,
Harur.

... Respondent in all W.Ps.

Prayer in W.P.No.44760 of 2016: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records on the files of the Respondent in TIN No.33333343403/2012-13 dated 28.11.2016 and quash the same.

Prayer in W.P.No.44761 of 2016: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records on the files of the Respondent in TIN No.33333343403/2013-14 dated 28.11.2016 and quash the same.

Prayer in W.P.No.44762 of 2016: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records on the files of the Respondent in TIN No.33333343403/2014-15 dated 28.11.2016 and quash the same.

Prayer in W.P.No.44763 of 2016: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records on the files of the Respondent in TIN No.33523342668/2012-13 dated 28.11.2016 and quash the same.



Prayer in W.P.No.44764 of 2016: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records on the files of the Respondent in TIN No.33523342668/2013-14 dated 28.11.2016 and quash the same.

Prayer in W.P.No.44765 of 2016: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records on the files of the Respondent in TIN No.33523342668/2014-15 dated 28.11.2016 and quash the same.

For Petitioner : Mr.R.Senniappan
(in all W.Ps)

For Respondent : Mr.A.N.R.Jayaprathap
(in all W.Ps) Standing Counsel

C O M M O N O R D E R

By this common order, all these Writ Petitions are being disposed.

2. In these Writ Petitions, the petitioner has challenged the impugned orders passed by the respondent for the Assessment Years 2012-13 to 2014-15 seeking to levy of penalty on the "invisible loss".

3. The case of the petitioner is that the petitioner has already paid the tax before issue of notice during the investigation conducted by the enforcement wing of the Commercial Tax Department and therefore the penalty proceeding should be dropped in terms of the directions of this Court rendered in State of Tamil Nadu Vs. Tvl.Golden Homes Pvt. Ltd, 2016 SCC OnLine Mad 25143.

4. Per contra, the learned counsel for the respondent submitted that there is no certificate for processing loss. However, the petitioner had declared the same in its balance sheet and it is only for the aforesaid amount of tax had been demanded under Section 19(9)(iii) of the TNVAT Act read with section 27 of the said Act.

5. I have considered the arguments of the learned counsel for the petitioner and the learned counsel for the respondent.



6. As far as the "invisible loss" is concerned, this issue is now covered by a decision of this Court in M/s. Ran India Steels (P) Limited Vs. The Principal Secretary/Commissioner of Commercial Taxes, Chennai, in W.P.No.3172 of 2014, which was passed on 04.12.2019.

7. In view of the same, I set aside the impugned orders passed by the respondent and remit the cases back to the respondent to pass fresh orders keeping the observations of this Court in M/s. Ran India Steels (supra), within a period of three months from the date of receipt of a copy of this order.

8. The petitioner may file its additional representation if any, within a period of thirty days from the date of receipt of a copy of this order.

9. The present Writ Petitions stand disposed with the above observations. No cost. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer,
Harur Assessment Circle, Harur.

+lcc to Mr.R.Senniappan, Advocate Sr.16398
+lcc to the Special Government Pleader Sr.16933

W.P.Nos.44760 to 44765 of 2016
and W.M.P.No.38588 to 38593 of 2016

ad[co]
srg 09/07/2020