

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.17357, 17371, 17363 and 17366 of 2020
and
WMP. Nos. 21508, 21515, 21518, 21513,
21507, 21521, 21500 & 21495 of 2020

M/s.M.G.S.Agro Bio Fuels,
Rep by the Authorized Signatory,
No. 9/5, Manjampoondi Village,
Kishsirupakkam,
Tiruvannamalai District.

... Petitioner in all WPs

Vs

The Assistant Commissioner (ST),
Tiruvannamalai II Assessment Circle,
Tiruvannamalai District.

... Respondents in all WPs

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorari to Call for the records of the respondent and to quash the assessment proceedings in TIN 33524661771 / 2013-14 & 2014-15 dated 10.08.2018 and TIN 33524661771 / 2016-17 & 2015-16 dated 07.09.2018 as illegal and to set aside the equal time addition of the alleged suppressions and decide this WEBSITE mismatch issue afresh after providing an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.C.Bakthasiromoni in all WPs

COMMON ORDER

The petitioner challenges orders of assessment passed in terms of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') for the periods 2013-14, 2014-15, 2015-16 & 2016-17, the first two dated 10.08.2018 and the second two dated 07.09.2018.

2. In my view, these writ petitions amounts to an abuse of process of the Court. The petitioner has challenged the same orders of assessment as impugned now in W.P.No.17485, 17490, 17493 & 17497 of 2019 seeking a certiorarified mandamus calling for and quashing the same. The writ petitions were disposed by order dated 26.09.2019 relegating the petitioner

to statutory appeal and noting the position that the learned counsel for the writ petitioner was not in a position to give the exact date on which the impugned orders have been served upon the petitioner.

3. The question of condonation of delay in filing statutory appeals were left to be decided by the appellate authority and the writ petitions disposed recording the submission of the writ petitioner that statutory appeals would be preferred in terms of Section 51 of the Act.

4. This Court specifically observed that if the petitioner sought condonation of delay, the application for condonation shall be dealt with on its own merits by the appellate authority subject to the provisions of Section 51(1) of the Act and the proviso thereto, making it clear that the examination of the appeal would arise only if the appeals were filed in time or the delay was condoned by the appellate authority. This order has attained finality.

5. This was followed up by W.P.Nos.30242, 30244, 30247 & 30249 of 2019, wherein the prayer was for a mandamus directing the first appellate authority to admit the appeals filed by considering the petitions for condonation and admit the appeals without insisting upon the statutory limitation prescribed in this regard. The prayer is in itself, contrary to the earlier orders of this Court wherein the Court had directed admission of the appeals only if the same were filed in compliance with all statutory conditions including limitation.

6. The second round of writ petitions were disposed on 23.10.2019 granting liberty to the petitioner to re-present the appeals with applications for condonation of delay. It was further ordered that the applications for condonation, if filed within a period of two weeks from date of receipt of a copy of that order, shall be considered by the appellate authority in terms of order dated 26.06.2019 passed in W.P.Nos.17485 of 2019 and batch. This order has also attained finality.

7. The appeals once re-presented, were returned by the 2nd respondent on 27.11.2019 holding the same to be barred by limitation and this order has not been challenged.

8. It is in the aforesaid circumstances that the petitioner is again before this Court with the identical prayer as sought for in W.P.Nos.17485 of 2019 and batch, i.e., certiorarified mandamus quashing orders of assessment passed in August and September 2018.

9. In the light of the narration as above, there is no justification whatsoever to entertain these writ petitions and the same are dismissed in limine. The petitioner will remit costs of a sum of Rs.5,000/- (Rupees five thousand only), to

the Cancer Institute, Adyar, Chennai, 600 020 within a period of four (4) weeks from date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To
The Assistant Commissioner (ST),
Tiruvannamalai II Assessment Circle,
Tiruvannamalai District.

+1cc to Mr.C.Bakthasiromoni , Advocate SR.No. 40257

+1 cc to Spl Government Pleader Sr.No. 40295

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A.SK(18.01.2021)

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