IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2020

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. Nos. 16044 to 16049 of 2017
and
W.M.P. Nos. 17332 to 17337 of 2017

Chennai Petroleum Corporation Ltd.,
(Represented by its General Manager (Finance)
A. Paul Christudass
No. 536, Anna Salai,
Chennai - 600 018. ... Petitioner in all W.Ps

vs

1. The Deputy Commissioner (CT)-III,
   Large Taxpayers Unit,
   34, Marshalls Road, Egmore,
   Chennai - 600 008.

2. The Sales Tax Appellate Tribunal,
   New City Civil Court Buildings,
   High Court Complex,
   Chennai - 600 104. ... Respondents in all W.Ps

Prayer in W.P. No. 16044 of 2017: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the First Respondent in TIN: 33491560843/2016-2017 (Jan)(CBR), dated 28.04.2017, quashing the same, while directing the First Respondent to forbear from proceeding to initiate assessment or recovery proceedings to recover the proportionate Input Tax Credit to the extent of inputs used in the manufacture of goods falling under the Second Schedule to the Tamil Nadu Value Added Tax Act, 2006, pending disposal of the appeals filed by the Petitioners before the Second Respondent in T.A.No.02/2014 and arising out of the assessment year TNVAT: 2007-2008, T.A.No.01/2014 arising out of TNVAT: 2008-2009 and T.A.No.64/2013 arising out of TNVAT : 2009-2010.

https://hcservices.ecourts.gov.in/hcservices/

WP.No.16045 of 2017:Petition filed under Article 226 of the Constitution of India praying to issue a Certiorarified Mandamus calling for the records on the files of the 1st respondent herein in TIN : 33491560843 / 2016-17 (Jan)(Manali) dt 28.4.2017 quashing the same while directing the 1st respondent herein to forbear from proceedings to initiate assessment or recovery proceedings to recover the proportionate Input Tax Credit to the extent of inputs used in the manufacture of goods falling under the Second Schedule to the Tamil Nadu Value Added Tax Act 2006 pending disposal of the appeals filed by the petitioners before the 2nd respondent herein in T.A. No.02/2014 and arising out of the assessment year TNVAT: 2007-08 T.A. No.01/2014 arising out of TNVAT: 2008-09 and T.A. No.64/2013 arising out of TNVAT: 2009-10

WP.No.16046 of 2017:Petition filed under Article 226 of the Constitution of India praying to issue a Certiorarified Mandamus calling for the records on the files of the 1st respondent herein in TIN : 33491560843 / 2016-17 (Feb)(CBR) dt 29.5.2017 quashing the same while directing the 1st respondent herein to forbear from proceedings to initiate assessment or recovery proceedings to recover the proportionate Input Tax Credit to the extent of inputs used in the manufacture of goods falling under the Second Schedule to the Tamil Nadu Value Added Tax Act 2006 pending disposal of the appeals filed by the petitioners before the 2nd respondent herein in T.A. No.02/2014 and arising out of the assessment year TNVAT: 2007-08 T.A. No.01/2014 arising out of TNVAT: 2008-09 and T.A. No.64/2013 arising out of TNVAT: 2009-10

WP.No.16047 of 2017:Petition filed under Article 226 of the Constitution of India praying to issue a Certiorarified Mandamus calling for the records on the files of the 1st respondent herein in TIN : 33491560843 / 2016-17 (Feb)(Manali) dt 29.5.2017 quashing the same while directing the 1st respondent herein to forbear from proceedings to initiate assessment or recovery proceedings to recover the proportionate Input Tax Credit to the extent of inputs used in the manufacture of goods falling under the Second Schedule to the Tamil Nadu Value Added Tax Act 2006 pending disposal of the appeals filed by the petitioners before the 2nd respondent herein in T.A. No.02/2014 and arising out of the assessment year TNVAT: 2007-08 T.A. No.01/2014 arising out of TNVAT: 2008-09 and T.A. No.64/2013 arising out of TNVAT: 2009-10

https://hcservices.ecourts.gov.in/hcservices/

WP.No.16048 of 2017:Petition filed under Article 226 of the Constitution of India praying to issue a Certiorarified Mandamus calling for the records on the files of the 1st respondent herein in TIN : 33491560843 / 2016-17 (Mar)(CBR) dt 29.5.2017 quashing the same while directing the 1st respondent herein toforbear from proceedings to initiate assessment or recovery proceedings to recover the proportionate Input Tax Credit to the extent of inputs used in the manufacture of goods falling under the Second Schedule to the Tamil Nadu Value Added Tax Act 2006 pending disposal of the appeals filed by the petitioners before the 2nd respondent herein in T.A. No.02/2014 and arising out of the assessment year TNVAT: 2007-08 T.A. No.01/2014 arising out of TNVAT: 2008-09 and T.A. No.64/2013 arising out of TNVAT: 2009-10

WP.No.16049 of 2017:Petition filed under Article 226 of the Constitution of India praying to issue a Certiorarified Mandamus calling for the records on the files of the 1st respondent herein in TIN : 33491560843 / 2016-17 (Mar)(Manali) dt 29.5.2017 quashing the same while directing the 1st respondent herein to forbear from proceedings to initiate assessment or recovery proceedings to recover the proportionate Input Tax Credit to the extent of inputs used in the manufacture of goods falling under the Second Schedule to the Tamil Nadu Value Added Tax Act 2006 pending disposal of the appeals filed by the petitioners before the 2nd respondent herein in T.A. No.02/2014 and arising out of the assessment year TNVAT: 2007-08 T.A. No.01/2014 arising out of TNVAT: 2008-09 and T.A. No.64/2013 arising out of TNVAT: 2009-10

For Petitioner : Mr. N. Prasad
(in all W.Ps)

For Respondents : Mr. Mohammed Shaffiq
(in all W.Ps) Special Government Pleader

सत्यमेव जयते
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COMMON ORDER

By this common Order all the Six Writ Petitions are being disposed. In these writ petitions, the petitioner has challenged the impugned orders dated 28.04.2017 for the assessment year 2016-17 (January) for the two Refineries at Manali Industrial Area and Cauvery Basin Refinery Area of the petitioner and four such orders for the petitioner's aforesaid two refineries for the period 2016-17 (February) and 2016-17 (March) respectfully.

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2. By the impugned orders, the first respondent had provisionally determined the input tax credit to be reversed by the petitioner for the respective months for the respective refineries of the petitioner. These orders have been passed under Section 25 of the Tamil Nadu VAT Act, 2006.

3. Heard the learned counsel for the petitioner and the respondents. Since the dispute in the present case falls within a narrow compass, these writ petitions can be disposed in terms of the decision of this Court rendered in M/S. Jothi Melters (India) Private Limited Versus The Commercial Tax Officer in W.A.Nos.1412 and 1413 of 2009 even though there is no requirement for passing separate assessment orders under the provisions of the Tamil Nadu VAT Act, 2006 in view of Section 22 of the said Act.

4. Since the dispute pertains to the aforesaid period and the period for completing the assessment has already expired, I am of the view that the cases can be remitted back to the respondent to complete the assessment in the light of the decision of the Division Bench of this Court in M/s.Jothi Melters (India) Private Limited versus the commercial tax officer in W.A.Nos.1412 and 1413 of 2009.

5. These orders passed under Section 25 of the Tamil Nadu VAT Act, 2006 were passed by leaving it open to the Assessing Officer to pass a final order of the assessment after hearing the assessee. While passing the said case, the court had followed the decision rendered in the context of Tamil Nadu General Sales Tax Act, 1959 in the case of Mahendrakumar Iswarlal and Company vs. Deputy Commercial Tax Officer (1971) 28 STC 551 (Mad) which decision was followed in the case of State of Tamil Nadu versus Wander Limited (1990) 79 STC 421 (Mad).

6. In the light of the above discussion, the impugned order quashed and the cases are remitted back to the 1st respondent to pass a speaking order within a period of three months from the date of communication of this order. In case the assessment orders have already not been passed so far, the petitioner shall be heard before such orders as passed.

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7.These Writ petitions stand disposed with the above directions. No cost. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/
Sub Asst. Registrar

arb

To

1. The Deputy Commissioner (CT)-III,
   Large Taxpayers Unit,
   34, Marshalls Road, Egmore,
   Chennai - 600 008.

2. The Sales Tax Appellate Tribunal,
   New City Civil Court Buildings,
   High Court Complex,
   Chennai - 600 104.

+1 cc to Mr.N.Inbarasan Advocate sr10995
+1 cc to the Special Government Pleader(tax) sr11914

W.P. Nos. 16044 to 16049 of 2017
and
W.M.P. Nos. 17332 to 17337 of 2017

mp(co)
aa12/03/2020

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