BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.11.2020**

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD).Nos.21046 & 21047 of 2016
and
W.M.P.(MD).Nos.15045 & 15046 of 2016

W.P.(MD).No.21046 of 2016

M/s. Eswari Dealers,
Represented by its Proprietrix S.Umadevi,
63/8, Keelakadai Street,
Virudhunagar. .. Petitioner

Vs.

1.The Commercial Tax Officer-II (Main),
Virudhunagar.

2.The Principal Secretary/
The Commissioner of Commercial Taxes,
Chepauk, Chennai. .. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorari, calling for the records in TIN/CST 33545760867/499175, 2013-14, dated 29.08.2016 and quash the proceedings dated 29.08.2016, in so far as the levy of purchase tax under Section 12 (1) (c) of the TNVAT Act, as it is unlawful and contrary to the provisions of the Act.

W.P.(MD).No.21047 of 2016

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For Petitioner : Mr.S.Karunakar

For Respondents : Mrs.J.Padmavathi Devi
Special Government Pleader
(In both Writ Petitions)

COMMON ORDER

(These writ petitions are heard through the Video Conference)

These Writ Petitions have been filed by the petitioner challenging the impugned pre-assessment notices dated 29.08.2016 issued for the assessment years 2013-14 and 2014-15.

2. Heard Mr.S.Karunakar, learned counsel for the petitioner, and Mrs.J.Padmavathi Devi, learned Special Government Pleader for the respondents.

3. The impugned assessment notices have been issued under the Tamil Nadu Value Added Tax Act, 2006, on account of non payment of purchase tax made by the petitioner under Section 12 of the Tamil Nadu Value Added Tax Act, 2006.

4. Admittedly, no final assessment orders have been passed pursuant to the issuance of impugned pre-assessment notices. Even before passing of the assessment order, the petitioner has approached this Court under Article 226 of the Constitution of India. This Court is of the considered view that the action initiated by the petitioner before this Court under Article 226 of the Constitution of India is premature. Since the petitioner has not filed any reply to the pre-assessment notices, his right to raise all defences with regard to the allegations made under the impugned pre-assessment notices, will have to be protected by this Court.

5. Therefore, liberty is granted to the petitioner to submit their objections by sending a reply to the impugned pre-assessment notices dated 29.08.2016, issued for the assessment years 2013-14 and 2014-15.

6. Accordingly, this Court directs the petitioner to submit their reply to the impugned pre-assessment notices dated 29.08.2016, issued by the respondents, for the assessment years 2013-14 and

2014-15, within a period of one week from the date of receipt of a copy of this order. On receipt of the said reply within the stipulated period, the respondents shall pass final assessment orders on merits and in accordance with law, after giving sufficient opportunity to the petitioner to raise all objections and also afford them the right of personal hearing, within a period of twelve weeks thereafter.

7. With the aforesaid direction, these Writ Petitions stand disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

tsg

Note: *In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy,shall be the responsibility of the advocate/litigant concerned.*

To

1.The Commercial Tax Officer-II (Main),
Virudhunagar.

2.The Principal Secretary/
The Commissioner of Commercial Taxes,
Chepauk, Chennai.

W.P(MD).Nos.21046 & 21047 of 2016
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