IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.10072, 10077, 10079, 10083 and 10089 of 2021
& WMP Nos.10705, 10707, 10710, 10713 and 10718 of 2021

Tvl.Rajgaru Plywoods
rep. By its Proprietor
S.Khimchand
No.18, A.V.Iyer Street,
Shevapet, Salem - 2 …Petitioner in the above W.Ps

Vs.

The Assistant Commissioner (ST)
Shevapet Circle,
Salem. ...Respondent in the above W.Ps

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari to call for the records on the file of the respondent in TIN:33902741447/2010-11, 2011-12, 2012-13, 2013-14 and 2014-15 dated 25.06.2020, 25.06.2020, 15.06.2020, 16.06.2020 and 17.06.2020 respectively and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.ANR.Jayaprathap
Government Advocate

C O M M O N O R D E R

Mr.ANR.Jayaprathap, learned Government Advocate accepts notice for the respondent and is armed with instructions to proceed with the matter finally even at the stage of admission. Hence, by consent of both sides, these Writ Petitions are taken up for final disposal even at this stage.

2. The petitioner challenges orders of assessment dated 25.06.2020, 25.06.2020, 15.06.2020, 16.06.2020 and 17.06.2020 for the periods 2010-11 to 2014-15 respectively passed in terms of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act').

Though the orders of assessment are passed and served upon the petitioner in June, 2020, the Writ Petitions are filed on 19.04.2021 and no explanation is set forth in the affidavit in regard to the delay and laches in approaching this Court.

3. That apart, the impugned orders reverse the claim of Input Tax Credit (ITC) in terms of Section 27(2) of the Act based upon the materials set out in the annexures to the selling/purchasing dealers returns. Normally, in a case of this nature, this Court normally finds inadequate compliance with the principles of natural justice insofar as the materials relied upon by the respondent are rarely furnished to the assessee.

4. This case appears to be an exception. The petitioner had approached this Court challenging original orders of assessment passed for the same periods and by order dated 24.11.2017, a learned single Judge of this Court in W.P.Nos.30305 to 30309 of 2017 set aside the orders of assessment citing the decision in the case of JKM Graphics Solutions Private Limited V. Commercial Tax Officer, Vepery Assessment Circle (99 VST 343). The Assessing Authority was directed to furnish all details as sought for by the petitioner, hear the petitioner and, after affording reasonable time to submit objections, redo the assessment in accordance with law.

5. Pursuant thereto, notices have been issued by the Assessing Authority, in response to which, the petitioner has stated that the objections filed on 20.07.2015 are self-explanatory and has requested for copies of records. The Assessing Authority records specifically that the details culled out from the Departmental website on the basis of annexure I and II of the purchasing/selling dealers were furnished to the assessee/petitioner and thus the burden cast upon the Department to furnish the materials relied upon by it, stands discharged. Personal hearing is stated to have been afforded on 14.11.2016 and 13.06.2017 and on both dates the petitioner, the officer would state, did not appear and neither was there any appearance thereafter.

6. Thus, I find no justification to interfere with the impugned orders under Article 226 of the Constitution of India. The petitioner may file appeals, if it is so inclined, before the first Appellate Authority in accordance with law within a period of two (2) weeks from today, in view of the decision of the Supreme Court in a series of judgments, viz., In Re: Cognizance for Extension of Limitation dated 23.03.2020, 06.05.2020, 10.07.2020, 08.03.2021 and M/s.SS Group Pvt. Ltd. V. Aaditiya J. Garg & another (Civil Appeal No.4085 of 2020 dated 17.12.2020) extending the time for filing of appeal till 14.03.2021.

7. These Writ Petitions are dismissed, granting liberty as above. No costs. Connected Miscellaneous Petitions are also dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sl

Note: Registry is directed to return the original impugned order to the learned counsel for the petitioner.

To

The Assistant Commissioner (ST)
Shevapet Circle,
Salem.

+1cc to M/s.R.Senniappan, Advocate SR.24641
+1cc to Special Government Pleader(Taxes) SR.25048

W.P. Nos.10072, 10077, 10079,
10083 and 10089 of 2021
& WMP Nos.10705, 10707, 10710,
10713 and 10718 of 2021

SSN(CO)
CB(06/07/2021)