IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.14014 of 2020
and
W.M.P.Nos.17405, 17407 &17408 of 2020

(Through Video Conferencing)

Tvl. YJ. Cashew Industries,
No.695, South Sathipattu, Sathipattu(Via)
Panruti Taluk,
Cuddalore District - 607 106.
Represented by M.Rajeshwari
Proprietor. ...Petitioner

Vs

1. The Commissioner, Commercial Taxes Department,
Ezhilagam, Chepauk,
Chennai - 600 005.

2. The Commercial Tax Officer,
Panruti (Rural),
Cuddalore District.

3. The Commercial Tax Officer,
Enforcement Group-I (FAC),
Cuddalore. ...Respondents

Prayer Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified, to call for the records relating to the proceedings of the second respondent in TIN 33804501567 / 2012-2013 dated 14.02.2017 and quash the same.

For Petitioner : Mr.B.Ramessh Kumaar

For Respondents : Mr.Richardson Wilson
Additional Government Pleader

ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

2. There are several disputed question of facts as the petitioner was maintaining dual system of billings with same serial numbers, i.e, one for sale of oil to hotel industries

which are exempted and for industrial consumers which is used under input for as a fuel and liable to Tax. The correctness of the manner and method of billing adopted cannot be determined under Article 226 of the Constitution of India. The petitioner has an alternate remedy before the Appellate Commissioner against the impugned order. The said remedy is also more efficacious under the circumstances.

3. Considering the same, I am inclined to dismiss this writ petition. Liberty is however also given to the petitioner to file an Appeal before the Appellate Commissioner within a period of thirty (30) days from the date of receipt of a copy of this order. If the petitioner files such an appeal, within such time, the Appellate Commissioner shall entertain the Appeal and dispose the same on merits and in accordance with law. Needless to state, the petitioner shall pre-deposit the disputed tax as is required under law as a condition for entertaining the Appeal. The petitioner shall be beard before the Appeal is disposed on merits.

4. This writ petition stands dismissed with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

rgm/jas

To

1. The Commissioner, Commercial Taxes Department,
Ezhilagam, Chepauk, Chennai - 600 005.

2. The Commercial Tax Officer,
Panruti (Rural), Cuddalore District.

3. The Commercial Tax Officer,
Enforcement Group-I (FAC),
Cuddalore.

+1cc to Mr.B.Ramessh Kumaar, Advocate SR. No.67355
+1cc to Special Government Pleader (Taxes) SR. No.67884

W.P.No.14014 of 2020
and
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RR (CO)
PR (06/01/2022)