IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 25.08.2021

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THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.Nos.17453, 17454, 17455, 17456, 17457 and 17458 of 2021
&
W.M.P.Nos.18534, 18537, 18539, 18540, 18541 and 18542 of 2021

Tvl.Saravana Global Energy Ltd.,
Virudhachalam Road
PN Kuppam
Kurinjipadi - 607 302 ...Petitioner in all WPs

Vs.

Assistant Commissioner (CT) (FAC)
Cuddalore Taluk Assessment Circle
Cuddalore ...Respondent

Writ petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records of the impugned order in CST No.383191/2012-13 dated 03.12.2020, CST No.383191/2013-14 dated 09.12.2020, CST No.383191/2014-15 dated 08.12.2020, CST No.383191/2015-16 dated 09.12.2020, CST No.383191/2016-17 dated 05.12.2020 and CST No.383191/2017-18 dated 08.12.2020 passed by the respondent herein and quash the same.

For Petitioner : Mr.T.Ramesh

For Respondent : Mr.T.N.C.Kaushik
Government Advocate

COMMON ORDER

This common order will dispose of captioned six writ petitions and the 'writ miscellaneous petitions' ('WMPs' in plural and 'WMP' in singular for the sake of brevity, convenience and clarity).

2. It may not be necessary to dilate much on facts as the matter turns on a very narrow compass and therefore, with the consent of Mr.T.Ramesh, learned counsel for writ petitioner in all six writ petitions and Mr.T.M.C.Kaushik, learned Revenue counsel for the sole respondent in all six writ petitions, captioned main writ petitions are taken up and heard out.

3. Short facts are that the writ petitioner has made inter-state sales to various customers charging concessional rate of tax. Therefore what is referred to as 'C' form under the 'Central Sales Tax Act, 1956' ('CST Act' for the sake of brevity) assumes significance. A notice of final assessment and demand under Rule 5 of the Central Sales Tax (Tamil Nadu Rules, 1957) under Section 12(3) and 12(4) of CST Act came to be issued for six different Assessment Years and these orders are the impugned orders in the captioned writ petitions.

4. Learned counsel for writ petitioner submitted that the only issue involved in the captioned writ petitions is issuance of C forms by some buyers being delayed for want of approval of E1 forms from the respondent.

5. In this regard, learned counsel draws the attention of this Court to a letter dated 04.01.2021 to the Department wherein specific details for 6 Assessment years giving break up of C Forms pending submission and E1 forms applied for, but pending approval have been given.

6. In response to the above, learned Revenue counsel, on instructions, submits that the E1 forms have been generated online. This by itself means that interstate sales have been effected.

7. If the E1 forms are made available, the petitioner will be entitled to claim benefit of concessional rate of tax by getting C forms from the entities / persons to whom interstate sales have been effected.

8. In the aforesaid scenario, learned counsel for writ petitioner submits that delay has occurred owing to the corona pandemic and consequent lock down, which is collectively referred to as 'Covid-19 situation', which writ petitioner could neither portend nor presage. Now that the E1 forms have been generated online, this Court is of the considered view that this is a fit case to set aside the impugned order without expressing any opinion on the merits of the matter so as to enable the Revenue to do the assessment afresh after taking into account the further C forms qua the E1 forms, which have since been generated online.

9. To be noted, this case will not serve as a precedent as this is a case where there is no disputation or disagreement that interstate sales to various customers had in fact been effected. Therefore, the captioned writ petitions are disposed of by making the following order:

a) The impugned orders being order dated 03.12.2020 bearing reference CST No.383191/2012-13, order dated 09.12.2020 bearing reference CST No.383191/2013-14, order dated 08.12.2020 bearing reference CST No.383191/2014-15, order dated 09.12.2020 bearing reference CST No.383191/2015-16, order dated dated 05.12.2020 bearing reference CST No.383191/2016-17 and order dated 08.12.2020 bearing reference CST No.383191/2017-18 are set aside without expressing any opinion or views on the merits of the matter;

b) As a sequitur to the previous directive, it is made clear that the impugned orders are set aside merely for the purpose of providing / facilitating assessment afresh owing to E1 forms which have been generated online.

c) The writ petitioner shall submit all C forms within three months from today i.e., on or before 25.11.2021. Thereafter, i.e., post 25.11.2021, the respondents shall embark upon the exercise of assessing afresh the returns on its own merits and in accordance with law and complete the whole exercise within three months therefrom i.e., on or before 25.02.2022.

Owing to the aforesaid orders in the main writ petitions, captioned WMPs are closed. There shall be no order as to costs.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

gpa
To
The Assistant Commissioner (CT) (FAC)
Cuddalore Taluk Assessment Circle
Cuddalore

+1 CC to Mr.T.Ramesh, Advocate sr 43150.
+1 CC to The Special Government Pleader sr 43136.

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NRL(CO)
SP(20/09/2021)