IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.17005, 17009, 17010, 17019, 17022 & 17025 of 2020
& WMP.Nos.21104, 21096, 21090, 21093, 21103 & 21109 of 2020

Tvl. Purushothaman Industries,
SSM Industrial Complex, PB No.737,
Edappadi Road, Kumarapalayam. ...Petitioner in W.P.Nos. 17005, 17009 & 17010/2020.

Tvl. SSM Processing Mills Ltd
No. 75A Edappadi Road
Kumarapalayam-638 183. ...Petitioner in W.P.Nos.17019, 17022 & 17025/2020.

Vs

The Assistant Commissioner (ST),
Office of the Asst. Commissioner (ST) FAC,
Sankari, Komarapalayam. ...Respondent in all W.Ps

PRAYER in W.P. Nos. 17005, 17009 & 17010/2020: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records of the Petitioner on the files of the Respondent herein in TNGST: 3220294/2002-2003,2003-2004, 2004-2005 and quash the impugned proceedings dated 03.09.2020, by holding that the same is ex-facie illegal and time barred in pursuance of the common order of this Court in Writ Petition Nos: 14661, 14665 & 14667/2019 common order dated 20/06/2019.

Prayer in W.P.Nos.17019, 17022 & 17025/2020:
Writ of Certiorari or any other appropriate Writ or order or nature of Writ calling for the records of the petitioner on the file of the Respondent herein in TNGST: 3223283/2002-2003, 2003-2004 & 2004-2005 respectively and quash the impugned proceedings dated 03.09.2020, by holding that the same is ex-facie illegal and time barred in pursuance of the common order of this Hon'ble High Court in W.P.Nos.14679, 14684 & 14686/2019 common order dated 20.06.2019.

(In all WPs)

For Petitioner : Ms.Nivedini
for Mr.K.Venkatasubramanian

For Respondents: Mr.ANR.Jaya Prathap
Government Advocate

COMMON ORDER

The challenge is to two sets of notices in the case of the two different petitioners for the periods 2002-03, 2003-04 and 2004-05 issued in terms of provisions of Tamil Nadu General Sales Tax Act, 1956. The main ground argued is captured in my order passed at the time of admission on 03.12.2020 to the following effect:

> Ms.G.Dhana Madhri, learned Government Advocate accepts notice for the respondent and seeks some time to obtain instructions and file a counter.
>
> 2. This Court in the earlier round of writ petition initiated in W.P.Nos.14661, 14665 and 14667 of 2019 by order dated 20.06.2019 had set aside the earlier order of assessment, passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006, for the periods 2002-03 to 2004-05 and had specifically directed the Assessing Authority to pass orders of assessment de novo within a period of six weeks from date of personal hearing i.e. on or before 23.08.2019.
>
> 3. The first limb of the order has been complied with insofar as the petitioner appeared on 12.07.2019 and represented its case. It was thus incumbent upon the Officer to have passed orders of assessment on or before 23.8.2019, instead of which he issues a notice on 28.08.2019 granting one more opportunity of personal hearing. This is in contravention of the directions in the earlier order passed by this Court.
>
> 4. Interim stay until further orders.
>
> 5. List on 11.01.2021. Counter by then with an advance copy served upon the petitioner either electronically or physically.

2. Though no counter is filed, Mr.Jayaprathap today draws my attention to the reply of the petitioner dated 12.07.2019 filed after order of this court dated 20.06.2019 in WP.Nos.14661, 14665 & 14667 of 2019, wherein they have

themselves prayed for the the matter to be kept in abeyance till such time batch of matters pending before the Second Bench of this Court is heard and decided. The Assessing Authority has thereafter issued notices on 28.08.2019 and the impugned order has come to be passed on 03.09.2020.

3. Learned counsel for the revenue would also point out that notwithstanding the pendency of the batch before the Second Bench, the issue stands covered in favour of the revenue by an order of the Full Bench of this Court in the case of Unique Traders Vs. Commercial Tax Officer-I (WA(MD))No.649 of 2014 dated 12.06.2020).

4. In the affidavit filed in support of this writ petition, the only ground raised is that the timelines fixed by this Court on 20.06.2019 have not been adhered to. This ground fails in light of the reply of the petitioners dated 12.07.2019 requesting the officer to keep the matters in abeyance till such time the batch is decided by the Bench. I thus find no merit in these writ petitions. Let notice be issued afresh and proceedings concluded after hearing the petitioners in accordance with law.

5.This writ petition is dismissed. Connected Miscellaneous Petitions are closed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ska/vs

To

The Assistant Commissioner (ST),
Office of the Asst. Commissioner (ST) FAC,
Sankari, Komarapalayam.

+1 CC to The Special Government Pleader(T) sr 9461 & 9462.
+1 CC to Mr. Adithya Reddy, Advocate sr 8982.



W.P.Nos.17005, 17009, 17010, 17019,
17022 & 17025 of 2020 and
WMP.Nos.21104, 21096, 21090,
21093, 21103 & 21109 of 2020

RV(CO)
SP(09/03/2021)