IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2023

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. Nos.1762, 1765 and 1768 of 2021
and
W.M.P. Nos.1971, 1973 ad 1978 of 2021

Tvl.Manoj Colours,
Represented by its Propreitrix,
R.Bhuvaneswari
No.19-A, KTC School Road,
KVR Nagar, Tirupur. ...Petitioner in all W.Ps.

Vs.

The State Tax Officer,
Tirupur (South) Circle,
Tirupur. ...Respondent in all W.Ps.

PRAYER in W.P.No.1762 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records on the file of the respondent in TNGST No.2322783/2002-03 dated 28.07.2020 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

PRAYER in W.P.No.1765 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records on the file of the respondent in TNGST No.2322783/2003-04 dated 28.07.2020 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

PRAYER in W.P.No.1768 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records on the file of the respondent in TNGST No.2322783/2004-05 dated 28.07.2020 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner in all W.Ps.	: Mr.B.Senniappan
For Respondent in all W.Ps.	: Ms.Amirtha Dinakaran Government Advocate

COMMON ORDER

This batch of writ petitions relate to the period 2002-03, 2003-04 and 2004-05 passed under the Tamil Nadu General Sales Tax Act, 1959 (hereinafter referred to as "the Act"). Admittedly, the impugned proceedings have been taken up on the basis of an order passed by a Bench of this Court in W.P.No.21601 of 2004 in the case of M/s.Dyer's Association of Tirupur dated 21.07.2017.

2. The above order of this Court is assumed to enable the assessing authority to reopen concluded assessments. Similar assessment made on the very same assumption as to the purport of the order in W.P.No.21601 of 2004 has been found to be misconceived by this Court in the case of

Tvl.Jayasakthi Process vs. The State Tax Officer and other in W.P.Nos.17186 of 2020 and etc., batch dated 16.03.2023, and the orders have been set aside. The relevant portions of the order is extracted hereunder:

> *"2. ....While so, the present proceedings have been taken up on the basis of an order passed by this Court in WP.No.21601 of 2004 by M/s.Dyer-s Association of Tiruppur, a writ petition of the year 2004 that was disposed on 21.07.2017. The prayer therein was for a mandamus directing the Special Commissioner of Commercial Taxes and his subordinates to grant exemption to the members of the petitioner association for their transactions pertaining to the cost of consumables utilised by them in the dyeing process.*
>
> *3. The writ petition has merely been disposed recording that the legal issue had been decided by judgments of the Hon-ble Supreme Court in the case of Rainbow Colour Lab v. State of Madhya Pradesh [118 STC 9] and Associated Cement Companies Limited v. Commissioner of Customs [(2001) 124 STC 59], followed in other matter including Tax Case (Revision)No.842 of 2006 and batch in State of Tamil Nadu v. Tvl.Geetha Dyeing and Others, by this Court. This order is a stand alone order which does not accord sanction to the authorities to reopen concluded assessments, which is what has transpired in the present case.*
>
> *4. Nowhere has this Court issued a direction enabling the assessing authority to reopen concluded assessments, after a period of 18 years. In the impugned order, there is a reference to -instructions of this Court- in order dated 21.07.2017, such reference is grossly misplaced as there are no such instructions, and authority merely assumes the same. "*

3. It is submitted by the learned counsel for the petitioner and the learned counsel for the Respondents in unison that the above order of this

Court covers the present impugned orders as well.

4. Recording the same, the impugned orders are set aside and the writ petitions are allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

14.07.2023

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
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To:
The State Tax Officer,
Tirupur (South) Circle,
Tirupur.

MOHAMMED SHAFFIQ, J.

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