IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.03.2023

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.Nos.8154, 8158, 8159 & 8163 of 2023
and WMP Nos.8388, 8389, 8391 & 8395 of 2023

L.V.Praveena ... Petitioner in all WPs

Vs

The State Tax Officer (ST)
Ambur Assessment Circle
Ambur. ... Respondent in all WPs

PRAYER in WP.8154 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in VAT No.33984262169/2007-2008 dated 06.06.2022 and quash the same as passed in violative of section 26 of the Tamil Nadu Value Added Tax Act, 2006 and also against the principles of natural justice and further direct the respondent to grant reasonable opportunity to the petitioner as contemplated under the provisions of the TNVAT Act and pass orders in accordance with law.

PRAYER in WP.8158 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in VAT No.33984262169/2008-2009 dated 06.06.2022 and quash the same as passed in violative of section 26 of the Tamil Nadu Value Added Tax Act, 2006 and also against the principles of natural justice and further direct the respondent to grant reasonable opportunity to the petitioner as contemplated under the provisions of the TNVAT Act and pass orders in accordance with law.

PRAYER in WP.8159 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in VAT No.33984262169/2009-2010 dated 06.06.2022 and quash the same as passed in violative of section 26 of the Tamil Nadu Value Added Tax Act, 2006 and also against the principles of natural justice and further direct the respondent to grant reasonable opportunity to the petitioner as contemplated under the provisions of the TNVAT Act and pass orders in accordance with law.

PRAYER in WP.8163 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in VAT No.33984262169/2010-2011 dated 06.06.2022 and quash the same as passed in violative of section 26 of the Tamil Nadu Value Added Tax Act, 2006 and also against the principles of natural justice and further direct the respondent to grant reasonable opportunity to the petitioner as contemplated under the provisions of the TNVAT Act and pass orders in accordance with law.

(In all WPs)
For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.C.Harsha Raj,
Additional Government Pleader

COMMON ORDER

Mr.C.Harsha Raj, learned Additional Government Pleader accepts notice for the respondent and is armed with instructions to enable this Court to dispose the matter finally, even at the stage of admission.

2. These Writ Petitions relate to the periods 2007-08 to 2010-11 and proceedings passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') pursuant to an order of remand by the Sales Tax Appellate Tribunal dated 06.05.2018.

3. The assessee named in the impugned orders is one Tvl.National Traders, Ambur. The assessee was being run as a sole proprietary by the husband of the petitioner, who was a regular dealer under the provisions of the Act. He passed away on 25.01.2020. The business under the same name and from same address, admittedly, is being conducted by the petitioner under the provisions of the Tamil Nadu Goods and Services Tax Act, 2017 (in short 'TNGST Act').

4. Pursuant to an order of remand, a notice was issued by the Sales Tax Officer on 21.09.2020, received by the petitioner and responded to on 21.09.2021. She appears to have approached the officer expressing lack of knowledge with any of the earlier proceedings and had sought time to respond. Though she was given sufficient time, she did nothing in support of her

submissions in the sales tax proceedings and hence the impugned orders have come to be passed without further reference to her.

5. There is really no infirmity in these orders, seeing as

i) the business is being continued by the petitioner with a GSTIN number and there is hence continuity of the business in her hands.

ii) It is thus incumbent upon her to comply with the provisions of the Act.

iii) Sufficient opportunities were given to her in the remand proceedings which was to no avail.

6. Learned counsel for the petitioner would state that the assessments, having been made in the name of the deceased dealer cannot be upheld and in this regard, he has cited decisions of this Court in the case of *State of Madras V. Smt.K.A.Valliamman and Ors.* (31 STC 581) and *Nirmal Kumar V. Assistant Commissioner (CT) Harbour III Asst. Circle* (W.P.Nos.20118 to 20123 of 2011 dated 07.09.2021).

7. These decisions are inapplicable to this matter. There is no question of the assessments having been made on a deceased person or an inoperative entity, as the assessee is a sole proprietary and with the demise of her husband Mr.Leela Venoth on 25.01.2020, admittedly, the petitioner is running the same business in the same name and from the same premises. Hence, the mere fact

that the proprietor has changed would not invalidate the assessment orders. This argument is rejected. As a consequence, the argument that notices should have been issued to her and also to his minor children as legal heirs is also without any basis and is rejected.

8. To be noted, learned counsel for the petitioner would accede to the position that the business has, in fact, been carried on in the same name under the provisions of the TNGST Act and from the same premises. Hence, this puts paid to his legal submission as aforesaid which stands conclusively rejected.

9. However, as a measure of doing substantial justice and in view of the averment at paragraph 10 of the affidavit filed in support of the Writ Petitions, where she states that she is unable to get in touch with the consultant, who handled the sales tax appeals for her husband and was hence unable to appear in time before the authorities, the impugned orders are set aside, to be redone de novo.

10. For this purpose, the petitioner will appear before the respondent on Friday, the 24th day of March, 2023 at 10.30 a.m. without expecting any further notice in this regard. After hearing the petitioner, orders shall be passed de novo, within a period of four (4) weeks from date of personal hearing, i.e., on or before 24.04.2023, in accorance with law.

Dr.ANITA SUMANTH,J.

11. It is made clear that if there is any failure on the part of the petitioner to appear on 24.03.2023, the impugned ordes will stand revived without further reference to the petitioner.

12. These Writ Petitions are disposed in the aforesaid terms. No costs. Connected Miscellaneous Petitions are closed.

16.03.2023

Index : Yes / No
Speaking Order
Neutral Citation:Yes
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To

The State Tax Officer (ST)
Ambur Assessment Circle
Ambur.

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