IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2023

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THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.Nos.20128 and 20133 of 2023
and
W.M.P.Nos.19472 and 19476 of 2023

Tvl.Baxter India P Ltd,
Kothari Warehouse No.52,
Madhavaram Redhills High Road,
Vadaperumpakkam, Madhavaram,
Chennai, Tamil Nadu – 600 060.
Represented by its Manager – Technical Services,
Mr.Yhogananthraj TKB. ... Petitioner in both W.Ps.

Vs.

1.State of Tamil Nadu,
Represented by the Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai – 600 005.

2.The Assistant Commissioner (CT),
Pondy Bazaar Assessment Circle,
No.46, Pasumpon Muthuramalingam Salai,
R.A.Puram, Chennai – 600 028.

3.The Assistant Commissioner (ST)(FAC),
Office of the Assistant Commissioner (ST),
Pondy Bazaar Assessment Circle,
No.46, Greenways, Chennai – 600 028. ... Respondents in both W.Ps.

Prayer in W.P.No.20128 of 2023: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the Impugned Recovery Notice bearing TIN:33101521336/2016-17 dated 28.06.2023 issued by the 3rd respondent and quash the same and to direct the respondents to not take any recovery action against the petitioner pursuant to the order bearing No.TIN/33101521336/2016-17 dated 02.03.2023 passed by the 2nd respondent, pending consideration of the rectification application dated 17.04.2023 filed by the petitioner under Section 84 of the Tamil Nadu Value Added Tax, 2006.

Prayer in W.P.No.20133 of 2023: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus, directing the 2nd respondent to consider the rectification application filed by the petitioner under Section 84 of the Tamil Nadu Value Added Tax, 2006, and to dispose of the rectification application dated 17.04.2023 within a prescribed time period after affording the petitioner an opportunity of personal hearing.

For Petitioner (in both W.Ps)	: Mr.Karthik Sundaram
For Respondents (in both W.Ps)	: Mr.V.Prashanth Kiran Government Advocate

COMMON ORDER

Mr.V.Prashanth Kiran, learned Government Advocate takes notice on behalf of the respondents.

2.The petitioner has suffered an adverse Assessment Order under Section 27 of the TNVAT Act, 2006 for the Assessment Year 2016-2017 on 02.03.2023. The order preceeds two notices dated 04.10.2018 and 12.12.2019 followed by a reminder on 21.10.2022. All these notices appears to have been served on the petitioner. The petitioner neither appearred nor filed any reply to the same. Thus, suffered an adverse order came to be passed by the respondents, whereby, an amount of Rs.25,87,89,733.00/- was confirmed against the petitioner. Meanwhile, the petitioner appears to have filed an application under Section 84 of the TNVAT Act, 2006. For the aforesaid application has been also acknowledged by the then Deputy State Officer, Pondi Bazaar Assessment Circle on 21.04.2023.

3.The learned Government Advocate for the respondents would submit that although the application dated 17.04.2023 bears the signature of the erstwhile Deputy Tax Officer of the respondents dated 21.04.2023, the copy of the representation/application is not available in the file. He further submits if the petitioner files a copy of such application, the application will be disposed on merits and in accordance with law.

4.Having heard the learned counsel for the petitioner and produced the impugned order and the representation dated 17.04.2023 which has been acknowledged on 21.04.2023, I am inclined to dispose these writ petitions at the time of admission by directing the petitioner to file a copy of the aforesaid representation before the respondents. The respondents shall proceed to pass appropriate orders.

5.Meanwhile, the learned counsel for the respondents may also forward a copy of the said representation which is enclosed along with the typed set to the offices concerned. This exercise shall be carried out both by the petitioner and the learned counsel within a period of one week from the date of receipt of the copy of this order. The respondents shall thereafter pass an order within a period of four weeks. All recovery proceedings shall be kept in abeyance for a period of five weeks. All such recovery subject to the proposed order to be passed under section 84 of the TNVAT Act, 2006. Needless to state, the petitioner shall also be heard before passing the order.

6.These writ petitions stand disposed of. No costs. Consequently, connected writ miscellaneous petitions are closed.

07.07.2023

Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking Order
Neutral Citation:Yes/No
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To

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C.SARAVANAN, J.

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