IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

CORAM

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

W.P.Nos.1036, 1038 and 1041 of 2022
and
W.M.P.Nos.1102, 1103 and 1105 of 2022

Y.Kasi Viswanatham, Proprietor. Balaji Impex,
Rep. by Authorized Representative,
Mr.Bysani Naga Venkata Rupesh,
Door No.7-662-4-50, Cumbum Road, Markapur,
Prakasam District, Andhra Pradesh,
India – 523 316.
(Petitioner cause title amended vide Order dated
23.08.2023 made in W.M.P.No.22682 of 2023 in
W.P.No.1036 of 2022.) ... Petitioner in all W.Ps.

Vs.

The State Tax Officer,
Tondiarpet Assessment Circle,
Integrated North Division Buildings,
No.32, Elephantgate Police Station Bridge Road,
Vepery,
Chennai – 600 003. ... Respondent in all W.Ps.

Prayer in 1036 of 2022: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari to call for the Respondent's proceedings dated 22.11.2021 in Rc.891/2020/B1(CST)/2014-2015 and quash the same.

Prayer in 1036 of 2022: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari to call for the Respondent's proceedings dated 22.11.2021 in Rc.891/2020/B1(CST)/2015-2016 and quash the same.

Prayer in 1041 of 2022: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari to call for the Respondent's proceedings dated 22.11.2021 in Rc.891/2020/B1(CST)/2016-2017 and quash the same.

For Petitioner : M/s.D.S.Vipula
(in all W.Ps.)

For Respondent : Mrs.K.Vasanthamala
Government Advocate
(in all W.Ps.)

COMMON ORDER

In these Writ Petitions, the Petitioner has challenged the Impugned Order dated 22.11.2021 passed by the Respondent for the Assessment Years 2014-2015, 2015-2016 and 2016-2017.

2. By the Impugned Order dated 22.11.2021, the demand have been confirmed. Earlier the Petitioner was subjected to tax liability under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as TNVAT Act, 2006). These proceedings were dropped and thereafter fresh proceedings were initiated under the provisions of the Central Sales Tax Act, 1956 (hereinafter referred to as CST Act, 1956) which has culminated in the Impugned Order. Although the Impugned Orders are dated 22.11.2021 for the respective assessment years, they indicates that the Petitioner has an alternate remedy before the Appellate Deputy Commissioner(ST), Chennai (North) within 30 days of receipt of this order.

3. The findings in the Impugned Order makes it very clear that the goods have been transported by the Petitioner through their C & F Agent, on road to Andhra Pradesh. The only complaint of the Respondent is that the Petitioner has not obtained Registration under the provisions of TNVAT Act, 2006 and CST Act, 1956 and the registration obtained earlier under the provisions of TNVAT Act, 2006 and CST Act, 1956 had been cancelled and the law did not permit them to do transport goods without registration under the provisions of TNVAT Act, 2006 and CST Act, 1956.

4. There are no records to show that the imported goods were cleared locally or were sold from Tamil Nadu as an Interstate sale to evade levy of tax in the hands of the Respondent. In case, the Petitioner has evaded any tax in the State of Andhra Pradesh, it is open for the Jurisdictional Assessing Authority from Andhra Pradesh to levy tax on local sales made by the Petitioner.

5. It is the case of the Respondent that the Petitioner has effected Interstate sale from the State of Tamil Nadu, then they should have produced documents to substantiate that the Petitioner had indeed evaded Interstate sale from Tamil Nadu and evaded tax. Merely suspicion of the Assessing Officer that Petitioner may have effected a local sale or an Interstate sale from Tamil Nadu is not sufficient. There has to be proof that there was evasion of tax. Therefore, on this jurisdictional fact, Impugned Orders dated 22.11.2021 passed by the Respondent for the Assessment Years 2014-2015, 2015-2016 and 2016-2017 are held unsustainable and therefore the demand confirmed is liable to be dropped.

6. In view of the above observations, these Writ Petitions are allowed. No cost. Consequently, connected Miscellaneous Petitions are closed.

23.08.2024

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

To

The State Tax Officer,
Tondiarpet Assessment Circle,
Integrated North Division Buildings,
No.32, Elephantgate Police Station Bridge Road,
Vepery,
Chennai – 600 003.

C.SARAVANAN, J.

rgm

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