IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.4713, 4715 & 4716 of 2020

M/s.Saradhambika Paper & Board Mills Private Limited
Represented by its Director,
Mrs.A.Sudha,
No.17, Rajiv Nagar,
Periya Semu, Erode,
Now at - Sellakumarapalayam,
Polavakalipalayam Post,
Gobichettypalayam - 638 476. ... Petitioner in all WP's

-vs-

The State Tax Officer,
Chitode Assessment Circle,
Gobichettypalayam. ... Respondent in all WP's

PRAYER in W.P.No.4713 of 2020: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, call for the records of the case on the file of the respondent herein, quash the impugned revised assessment order of the respondent in VA.VE.No.3061802/2000-01 dated

18.12.2019 as ex-facie illegal and direct the respondent to issue refund of Rs.5,67,393/- as per the G.O.Ms.No.176, Commercial Taxes and Registration (B2), dated 28.12.2006 notified in Gazette Notification No.II(1)CTR/58(d-2)/2006 dated 28.12.2006 and G.O.Ms.198, Commercial Taxes and Registration (B2), dated 19.12.2007 for the assessment year TNGST/2000-01.

PRAYER in W.P.No.4715 of 2020: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, call for the records of the case on the file of the respondent herein, quash the impugned revised assessment order of the respondent in VA.VE.No.3061802/2001-02 dated 18.12.2019 as ex-facie illegal and direct the respondent to issue refund of Rs.5,55,125/- as per the G.O.Ms.No.176, Commercial Taxes and Registration (B2), dated 28.12.2006 notified in Gazette Notification No.II(1)CTR/58(d-2)/2006 dated 28.12.2006 and G.O.Ms.198, Commercial Taxes and Registration (B2), dated 19.12.2007 for the assessment year TNGST/2001-02.

PRAYER in W.P.No.4716 of 2020: Writ Petition filed under Article

226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, call for the records of the case on the file of the respondent herein, quash the impugned revised assessment order of the respondent in VA.VE.No.3061802/2002-03 dated 18.12.2019 as ex-facie illegal and direct the respondent to issue refund of Rs.6,67,117/- as per the G.O.Ms.No.176, Commercial Taxes and Registration (B2), dated 28.12.2006 notified in Gazette Notification No.II(1)CTR/58(d-2)/2006 dated 28.12.2006 and G.O.Ms.198, Commercial Taxes and Registration (B2), dated 19.12.2007 for the assessment year TNGST/2002-03.

For Petitioner in all WP's : Mr.B.Sivaraman

For Respondent in all WP's : Mr.V.Prasanth Kiran, GA (T)

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COMMON ORDER

In these three writ petitions, the respective order rejecting the claim for refund is challenged.

2. In all three impugned orders, the request for refund was rejected by relying on G.O.Ms.No.198, Commercial Taxes and Registration (B2) dated 19.12.2007. In a batch of writ petitions, *M/s.VG Paper and Boards Ltd. v. The Government of Tamil Nadu and others, W.P.Nos.36170 of 2007 batch, judgment dated 21.12.2022*, a Division Bench of this Court held that G.O.Ms.No.198 is invalid. Both learned counsel for the petitioner and learned Government Advocate concur that the said judgment covers the issue raised in these writ petitions.

3. The operative part of the judgment of the Division Bench is as under:

> *"In the result:*
>
> *a. The impugned order in G.O.Ms.No.198 dated 19.12.2007 is declared invalid as being in excess of the power conferred on the Stage*

Government under Section 17 (or) Sections 30 read with Section 88 of the TNGST and TNVAT Act respectively.

b. Orders of assessment are set-aside insofar as it had invoked the G.O.Ms.No.198, with a direction to re-do the assessment in conformity with the declaration of invalidity of the impugned notification in 19.12.2007.

c. Where writ petitions are filed against notices, the petitioner shall submit their objections, if any, within a period of 4 weeks from the date of receipt of a copy of this order and the assessing officer shall pass orders of assessment in conformity with this order."

4. Accordingly, the orders impugned in these writ petitions are quashed and the matter is remanded for re-consideration of the respective refund application. Such re-consideration shall be undertaken by taking into account the fact G.O.Ms.No.198 was declared invalid. After providing a reasonable opportunity to the petitioner, including a personal hearing, fresh orders shall be issued

on such refund applications within a maximum period of ***six weeks*** from the date of receipt of a copy of this order.

5. W.P.Nos.4713, 4715 and 4716 of 2020 are disposed of on the above terms. No costs.

13.02.2024

rna
Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

The State Tax Officer,
Chitode Assessment Circle,
Gobichettypalayam.

SENTHILKUMAR RAMAMOORTHY,J

rna

W.P.Nos.4713, 4715 & 4716 of 2020

13.02.2024