IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 19.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.Nos.6950 & 6956 of 2024**
**and W.M.P.Nos.7750 & 7754 of 2024**

M/s.Caris Pure Processing Company Pvt Ltd.,
Rep. by its Director Mrs.Shanthi Prince
Regd Office: No.23C Kohinoor Complex, Vettuvankeni
ECR, Injambakkam, Chennai 600 041.
Presently at: 19 Seashore Town, 2nd Avenue,
3rd Main Road, Panaiyur, Chennai 600 119.

... Petitioner in both WP's

-vs-

1.The State Tax Officer (ST)(FAC)
Sholinganallur Assessment Circle
11 Burma Colony, I Main Road,
Perungudi, Chennai 600 096.

2.The Asst. Commissioner of Tax (Sale Tax)
Sholinganallur Assessment Circle
11 Burma Colony, I Main Road,
Perungudi, Chennai 600 096.

3.The Commercial Tax Officer
Maduranthagam Assessment Circle
Madhuranthagam, Chengalpattu District.

4.The Asst. Commissioner of Tax (Sales Tax)
Maduranthagam Assessment Circle,
Madhuranthagam, Chengalpattu District.

5.The Asst. Commissioner of Tax (Sales Tax)
Thirukazhkundrum Assessment Circle,
Thirukazhkundrum, Chengalpattu District.

... Respondents in both WP's

**PRAYER in W.P.No.6950 of 2024**: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Proceedings bearing No. TIN 33590929027/2015-16 dated 15.02.2024 on the file of the first respondent, quash the same and to direct the first respondent to consider the representation dated 08.02.2023 afresh applying the Advance Ruling issued in ACAAR107/2015-16 Acts Cell-II/38179/2017 dated 18.06.2018 and grant exemption of 5% VAT to the "chilled, packed and Branded Chicken" as per Entry 54 of Part B of the Fourth Schedule to the TNVAT Act, 2006.

**PRAYER in W.P.No.6956 of 2024**: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the

Proceedings bearing No. TIN 33590929027/2014-15 dated 15.02.2024 on the file of the first respondent, quash the same and to direct the first respondent to consider the representation dated 08.02.2023 afresh applying the Advance Ruling issued in ACAAR107/2015-16 Acts Cell-II/38179/2017 dated 18.06.2018 and grant exemption of 5% VAT to the "chilled, packed and Branded Chicken" as per Entry 54 of Part B of the Fourth Schedule to the TNVAT Act, 2006.

For Petitioner in both WP's : Mr.R.Selvakumar

For Respondents in both WP's : Mr.T.N.C.Kaushik, AGP (T)

**********

## COMMON ORDER

Orders dated 15.02.2024 in respect of two distinct assessment periods in rectification proceedings are the subject of challenge. The petitioner is in the business of supplying chicken to restaurants and retailers. In relation thereto, assessment orders were issued. Such assessment orders were challenged by filing a writ petition before this Court. The petitioner carried the order in writ petition in appeal before the Division Bench. By judgment dated 19.03.2019, the writ appeal was disposed of by permitting the petitioner to file a statutory appeal. Such statutory appeals were filed but not pursued. Subsequently, the petitioner filed the rectification petitions in February 2023 by relying on the ruling of the advance ruling authority on 18.06.2018. Since such rectification petitions were rejected, the present writ petitions were filed.

2. Learned counsel for the petitioner referred to sub-section (3) of Section 48A of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) to contend that the ruling of the advance ruling authority is binding in respect of the goods in respect of which such ruling was issued. In spite of placing such ruling before the assessing officer, he submits that the rectification petitions were

rejected on the ground that the petitioner did not pursue the appeals before the Deputy Commissioner (ST) Appeals.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondents. He points out that the assessment orders were issued in 2017 and that the petitioner did not pursue the appellate remedy in spite of the directions of the Division Bench of this Court.

4. The rectification petitions were rejected largely on the ground that the petitioner did not comply with the directions issued by the Division Bench to pursue the appellate remedy. In particular, the contention of the petitioner that the ruling of the advance ruling authority in respect of the relevant goods is binding under sub-section (3) of Section 48A of the TNVAT Act was not taken into consideration. For the limited purpose of re-consideration on this aspect, the impugned orders call for interference.

5. Therefore, the impugned orders dated 15.02.2024 are quashed and the matters are remanded for re-consideration. The assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh assessment orders within ***two months*** thereafter.

6. W.P.Nos.6950 and 6956 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos.7750 and 7754 of 2024 are closed.

**19.03.2024**

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

**To**

1.The State Tax Officer (ST)(FAC)
Sholinganallur Assessment Circle
11 Burma Colony, I Main Road,
Perungudi, Chennai 600 096.

2.The Asst. Commissioner of Tax (Sale Tax)
Sholinganallur Assessment Circle
11 Burma Colony, I Main Road,
Perungudi, Chennai 600 096.

3.The Commercial Tax Officer
Maduranthagam Assessment Circle
Madhuranthagam, Chengalpattu District.

4.The Asst. Commissioner of Tax (Sales Tax)
Maduranthagam Assessment Circle,
Madhuranthagam, Chengalpattu District.

5.The Asst. Commissioner of Tax (Sales Tax)
Thirukazhkundrum Assessment Circle,
Thirukazhkundrum, Chengalpattu District.

**SENTHILKUMAR RAMAMOORTHY,J**

rna

**W.P.Nos.6950 & 6956 of 2024**
**and W.M.P.Nos.7750 & 7754 of 2024**

**19.03.2024**