IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.17144 of 2021 and W.M.P.No.18165 of 2021

Tvl.Star Seeds
Represented by its Proprietor,
M.Subramani,
No.6/261, Kattukottai Road,
Vadachennimalai P.O.,
Attur Taluk, Salem District.
..Petitioner

Vs.

The State Tax Officer,
Attur (Town) Assessment Circle,
Attur. ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records on the file of the respondent in CST.676352/2004-05 dated 29.06.2021 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.P.Rajavelu

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

The writ petition is filed challenging the order of assessment dated 29.06.2021 on the premise that the assessing officer has erred in rejecting the claim of exemption made by the petitioner with regard to the sale of hybrid cotton seeds.

2. It is submitted by both the learned counsel for the petitioner as well as the respondent that the issue stands covered by a Judgment of this Court in W.P.Nos.10768 to 10770 of 2006 dated 25.04.2019 wherein Clarification No.147 of 2005 dated 26.09.2005 was the subject matter of consideration and it was held that the assessing officer shall carry out fresh assessment after granting the petitioner a reasonable opportunity disregarding the said clarification. The relevant portion is extracted here under :

> *"Consequently, it is in the interest of justice that the Assessment Orders dated 28.02.2006, both under the CST Act and the TNGST Act, be set aside in so far as they relate to the taxability of cotton seeds used exclusively for seeding purposes. As a result, the Assessing Officer is directed to carry out fresh assessment, in that regard, after providing a reasonable opportunity to the Petitioner to submit objections and make its submissions. The said Assessing*

Officer shall make the assessment on an independent basis by disregarding Clarification No.147 dated 26.09.2005 or any other clarification and the A communications dated 30.08.2005 and 13.10.2005. The said fresh P assessment proceedings with regard to the taxability of cotton seeds used for seeding purposes shall be completed within a period of four months from the date of receipt of a copy of this order. Needless to say, the Assessment Orders shall remain binding in all other respects and the Assessing Officer shall decide the taxability of cotton seeds used exclusively for seeding purposes without taking into account any observations in this order on the merits of the dispute."

3. It was submitted by the learned counsel for the petitioner that a clarification has been issued in the case of the petitioner dated 20.12.2021 and would therefore submit that while redoing the assessment they may be granted the liberty to place the same for consideration before the assessing authority.

4. In the circumstances considering the submissions made, the matters are remanded back to the assessing officer for fresh consideration. It is open to the petitioner to file their objection and place any other material in support of the claim of exemption. If objections or any other material is placed the same shall be considered and order shall be passed after affording the petitioner a reasonable opportunity of

hearing. The petitioner shall submit its objection with all materials in support thereof within 4 weeks from the date of receipt of copy of this order and assessment order shall be made within a period of 8 weeks from the date of receipt of the objection. If the petitioner fail to submit its objections within the period stipulated i.e., 4 weeks from the date of receipt of copy of this order then the impugned order of assessment dated 29.06.2021 shall stand restored.

5. The writ petition stands disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

07.03.2024

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
spp

MOHAMMED SHAFFIQ, J.

spp

To:

The State Tax Officer,
Attur (Town) Assessment Circle,
Attur.

W.P. No.17144 of 2021 and
W.M.P.No.18165 of 2021

07.03.2024