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W.P. No.18351 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 07.03.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**W.P. No.18351 of 2021 and W.M.P.No.19556 of 2021**

Tvl.Essar Seeds  
Represented by its Proprietor,  
R.Tharani,  
No.188/D2, Kamarajanar Road,  
Attur – 636 102, 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 files of the respondent in CST.42788/2003-04 dated 28.06.2021 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 : Ms.Amrita Dinakaran  
Government Advocate



W.P. No.18351 of 2021

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## **ORDER**

The writ petition is filed challenging the order of assessment dated 28.06.2021 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 hereunder :

*“6. .... 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*



W.P. No.18351 of 2021

WEB COPY

*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. 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 are filed 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



W.P. No.18351 of 2021

assessment dated 28.06.2021 shall stand restored.

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4. 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

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W.P. No.18351 of 2021

**MOHAMMED SHAFFIQ, J.**

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To:

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

**W.P. No.18351 of 2021 and**  
**W.M.P.No.19556 of 2021**

**07.03.2024**