IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.18020, 18593, 18595 and 22019 of 2022
and
W.M.P.Nos.17343, 17344, 17921, 17922, 17925, 17926 of 2022

Mr.P.Manishankar ... Petitioner in all W.Ps

Vs.

The Assistant Commissioner (ST),
Velachery Assessment Circle,
Integrated Commercial Taxes and
Registration Department Building (South Tower),
Room No.222, II Floor,
Anna Salai, Nandanam,
Chennai - 600 035. ... Respondent in all W.Ps

Prayer in W.P.No.18020 of 2022: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the impugned proceedings of the respondent in RC.167/2009/TNGST : 0985216/2005-2006 dated 01.04.2022 and quash the same.

Prayer in W.P.No.18593 of 2022: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the impugned proceedings of the respondent in RC.167/2009/TNGST : 0985216/2006-2007 dated 01.04.2022 and quash the same.

Prayer in W.P.No.18595 of 2022: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the impugned proceedings of the respondent in TIN : 33790985216/2006-2007 dated 01.04.2022 and quash the same as passed beyond the period of limitation as contemplated under Section 27(1)(a) of the TNVAT Act, 2006.

Prayer in W.P.No.22019 of 2022: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to direct the respondent to consider the petitioner's rectification application dated 18.05.2016 filed under Section 55 of the TNGST Act, 1959 and the reminder dated 24.07.2019 and pass a revised assessment order for the year 2004-2005 under the TNGST Act, 1959 by indicating the payment of Rs.19,69,721/- towards interest for the belated payment of tax for the year 2004-2005 which was omitted to be taken into account and also omitted to be indicated in the assessment order dated passed in RC 167/2009/(2004-2005) dated 01.09.2014.

For Petitioner : Mr.P.Rajkumar
(In all W.Ps)

For Respondents : Mrs.K.Vasanthamala
(In all W.Ps) Government Advocate

COMMON ORDER

By this Common Order, all the Writ Petitions are being disposed of.

2. The admitted position is that despite earlier writ petitions were filed and the petitioner had secured orders quashing the Assessment Orders that were passed earlier, now the present Impugned Orders have been passed.

3. Long after the orders were passed by this Court in separate writ petitions filed by the petitioner, the respondent issued notices. These notices have now culminated in the Impugned Assessment Orders which are impugned in W.P.Nos.18020, 18593 and 18595 of 2022.

4. The respondent Department has also recovered the tax demanded

and the penalty imposed together with interest from the petitioner. Insofar as W.P.No.22019 of 2022 is concerned, also the petitioner had earlier challenged the Assessment Order.

5. It is noticed that the orders passed are stereotype orders. They have merely recorded that having considered the submissions of the petitioner, the submissions of the petitioner were not acceptable and therefore the demands have been confined in the Impugned Assessment Orders. Relevant portion of the Order in W.P.No.18593 of 2022 is reproduced below:-

> *"The objection filed by the dealer has been examined carefully. The dealer objection that the documentary evidence i.e., statement of purchase and deemed sales arrived for each commodity with tax payable as proof is not convincing and it is not acceptable. The dealer has not filed the documentary evidence for the proposal raised in this office notice dated 27.05.2019. In the absence of the documentary evidence the objection filed by the dealer has been overruled and the proposal is confirmed.*
>
> *Pertaining to sale of Asset the dealer has not filed an documentary evidence whether it is used car. In the absence of the documentary evidence the proposal to assess the value of Rs.5,50,000/- at 16% is confirmed.*
>
> *In view of the above facts the order for the year 2006-07 (upto Dec 2016) under TNVAT Act, 1959 is revised as detailed below*

Deemed sale value assessed to tax
for the year 2006-07 Rs.90100669/-

Details	***Turnover***	***Rate of Tax***	***Tax due***
Goods to be assessed at 4%	14907399	0.04	596296
Goods to be assessed at 10%	122545	0.10	12255
Goods to be assessed at 12%	17136411	0.12	2056369
Resale turnover	57934214	0.01	579342
Sale of Asset Value	550000	0.16	88000
Tax due			3332262
Tax paid			847265
Balance			2484997

A notice in Form 'B3' will be issued.
<u>Surcharge</u>
Surcharge levied at 5% on the tax due of Rs.2664921/- for the year.
Surcharge due at 5% - Rs.133246.00
Surcharge paid - Rs.0
Balance - Rs.133246.00

A notice in Form 'U' will be issued."

Similar other orders passed for the other two Assessment Years as well.

6. Since the reply of the petitioner has not been considered properly

and there is no discussion in the order, the Impugned Assessment Orders are liable to be quashed as arbitrary.

7. Under these circumstances, the Impugned Assessment Orders are quashed. The respective cases are remitted back to the respondent to pass a fresh orders on merits and in accordance with law within a period of 6 months from the date of receipt of a copy of this Order.

8. Needless to state, before final orders are passed, the petitioner shall be heard.

9. These Writ Petitions are allowed with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

13.12.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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To:

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Integrated Commercial Taxes and
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Room No.222, II Floor,
Anna Salai, Nandanam,
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C.SARAVANAN, J.

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