IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **26.11.2024**

CORAM :

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.Nos.34562, 34566, 34568, 34569 and 34437 of 2024
and
W.M.P.Nos.37473, 37477, 37481, 37483 and 37304 of 2024

Southern Agrifurane Industries Private Limited,
Represented by its Director - Dr.Augustine Paulraj
1180/2, Ellis Chatram Road,
Vazhudareddy,
Villupuram - 605 401. ... Petitioner in all W.Ps.

Vs.

The Assistant Commissioner (State Tax),
Villupuram - 1,
No.27/11, V.O.C.Street,
Villupuram - 605 602. ... Respondent in all W.Ps

Prayer in W.P.No.34562 of 2024:-Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari, to call for the records in the proceedings of the respondent in Order GSTN:33AAGCS9705FIZD/2019-20, dated 16.10.2024 passed by the respondent and to quash the same as arbitrary and illegal.

Prayer in W.P.No.34566 of 2024:-Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari, to call for the records in the proceedings of the respondent in Order GSTN:33AAGCS9705FIZD/2018-19, dated 16.10.2024 passed by the respondent and to quash the same as arbitrary and illegal.

Prayer in W.P.No.34568 of 2024:-Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari, to call for the records in the proceedings of the respondent in Order GSTN:33AAGCS9705FIZD/2017-18, dated 16.10.2024 passed by the respondent and to quash the same as arbitrary and illegal.

Prayer in W.P.No.34569 of 2024:-Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari, to call for the records in the proceedings of the respondent in Order GSTN:33AAGCS9705FIZD/2020-21, dated 16.10.2024 passed by the respondent and to quash the same as arbitrary and illegal.

Prayer in W.P.No.34437 of 2024:-Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari, to call for the records in the proceedings of the respondent in Order GSTN:33AAGCS9705FIZD/2021-22, dated 16.10.2024 passed by the respondent and to quash the same as arbitrary and illegal.

For Petitioner : Mr.Joseph Prabakar in all W.Ps

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader in all W.Ps

COMMON ORDER

These writ petitions are filed challenging the impugned orders dated 16.10.2024 whereby the petitioner was subject to VAT in respect of Sales of Extra Neutral Alcohol.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in manufacturing and sales of alcoholic liquor and Extra Neutral Alcohol. The petitioner had obtained registration under TNVAT Act, 2006; CST Act, 1956 and GST Act, 2017. The petitioner is registered under GST Act, with Registration No.GSTIN-33AAGCS9705FIZD. The respondent conducted VAT Audit under Section 64 of TNVAT Act, 2006 on 15.07.2024 and certain discrepancies were found for the period from 2017-2018 to 2021-2022. Pursuant thereto a revision notice dated 13.09.2024 was issued to which the petitioner submitted its reply on 16.09.2024. This was followed by a notice dated

16.09.2024 and the petitioner filed their objections to the same on 03.10.2024. Thereafter, the respondent had passed Assessment Orders under TNVAT Act, for the period from 2017-2018 to 2021-2022 on 16.10.2024 levying VAT on sales of Extra Neutral Alcohol. It was also submitted by the learned counsel for the petitioner that the respondent proceeded to pass Assessment Orders dated 16.10.2024 without granting an opportunity of personal hearing to the petitioner. It was further submitted by the learned counsel for the petitioner that the Assessment Orders are in violation of Principles of natural justice and thus liable to be set aside.

3. At this juncture, the learned counsel for the respondent submitted that counter has now been filed wherein, it is clarified that the Extra Nuclear Alcohol, for the period between 01.07.2017 to 31.10.2024, can be taxed only under GST Act and not under VAT Act.

4. The counter also states that impugned order would be rectified and would pray that respondent may be granted liberty to make appropriate assessment under the CGST/TNGST Act, 2017, for the assessment years viz., 2017-2018 to 2021-2022.

5. Recording the same, these Writ Petitions are closed and the impugned orders are set aside. It is made clear that this Court has not expressed anything on merits and it is open to the respondent to proceed in accordance with law. No costs. Consequently, connected W.M.Ps are closed.

26.11.2024

nvi

Index :Yes/No.
Speaking order:Yes/No.

To
The Assistant Commissioner (State Tax),
Villupuram - 1,
No.27/11, V.O.C.Street,
Villupuram - 605 602.

MOHAMMED SHAFFIQ,J.,

nvi

Common order in
W.P.Nos.34562, 34566, 34568, 34569 and 34437 of 2024 and
W.M.P.Nos.37473, 37477, 37481, 37483 and 37304 of 2024

26.11.2024