



W.P.(MD) Nos.26966 and 26967 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2024

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)Nos.26966 and 26967 of 2022

and

W.M.P.(MD)Nos.21131 and 21132 of 2024

Tvl. P.C.S.Trades,
Rep. by its Proprietor,
P.C.S.Govindaraja Perumal,
S/o.P.C.Sundara Rajan,
No. 112/4, Katchery Road,
Virudhunagar - 626 001.

... Petitioner in both the W.Ps.

Vs.

1.The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner
of Commercial Taxes,
Ezhilagam, Chepauk, Chennai - 600 005.

2.The State Tax Officer (FAC),
Virudhunagar-I Assessment Circle,
Commercial Taxes Building,
Madurai Road,
Virudhunagar - 626 001.

... Respondents in both the W.Ps.

Prayer in W.P.(MD)No.26966 of 2022:- Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the second respondent in TIN. 33275721100 / 2014-15 ante-dated as 28.09.2022, quash the same and consequently, direct to re-do the assessment afresh after giving due opportunity.



W.P.(MD) Nos.26966 and 26967 of 2022

Prayer in W.P.(MD)No.26967 of 2022:- Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the second respondent in TIN. 33275721100 / 2015-16 ante-dated as 28.09.2022, quash the same and consequently, direct to re-do the assessment afresh after giving due opportunity.

For Petitioner in both the W.Ps. : Mr.B.Rooban

For Respondents in both the W.Ps. : Mr.J.K.Jayaselan
Government Advocate

COMMON ORDER

In these two Writ Petitions, the petitioner has challenged the impugned Assessment Orders both dated 28.09.2022 for the Assessment Years 2014-2015 and 2015-2016.

2. The dispute relates to levy of purchase tax under Section 12 of the Tamil Nadu Value Added Tax Act, 2006 [hereinafter referred to as "the TNVAT Act"]. The records reveals that the petitioner has been receiving pre-revision notices from the year 2020, to which the petitioner has also replied and thereafter, several opportunities were granted to the petitioner to come for a personal hearing. Finally, the second respondent has issued hearing notice dated 12.09.2022, though it has been titled as



W.P.(MD) Nos.26966 and 26967 of 2022

"pre-assessment notice". The petitioner has however, sent a letter dated 21.09.2022 and sought further time for filing objections along with documentary evidences. Thereafter, the petitioner claims to have sent a letter dated 03.10.2022 along with the details of import from other State. However, the impugned orders have been passed on 28.09.2022.

3. It is the case of the petitioner that in response to the letter dated 21.09.2022 for the Assessment Year 2014-2015, the Officer should have either informed the petitioner that his request for adjournment was either being allowed or rejected. Therefore, it was not open for the second respondent to have passed the impugned orders dated 28.09.2022 for the respective Assessment Years.

4. It is further submitted that the petitioner has also succeeded in similar issues arising for the Assessment Year 2013-2014 on 31.10.2022. It is further submitted that as far as the Assessment Years 2014-2015 and 2015-2016 are concerned, after the impugned orders were passed on 28.09.2022, the petitioner has also filed an application under Section 84 of the TNVAT Act, which has been rejected by the second respondent without considering the representation of the petitioner, dated 09.11.2022, vide order dated 09.11.2022.



W.P.(MD) Nos.26966 and 26967 of 2022

WEB COPY 5. A reading of the order dated 09.11.2022, rejecting the request of the petitioner for revision of the assessment made on 28.09.2022 reveals that the order has been passed in undue haste. The dispute pertains to the Assessment Years 2014-2015 and 2015-2016 and the amount involved are huge. For the Assessment Year 2014-2015, the tax amount is Rs.91,46,490/- and the amount of tax involved for the Assessment Year 2015-2016 is Rs.68,98,819/-.

6. In view of the above, to balance the interest of the petitioner, I am inclined to set aside the orders dated 09.11.2022, rejecting the Petition filed by the petitioner for revision of the orders dated 28.09.2022, subject to the petitioner depositing 10% of the disputed tax before the second respondent in cash by way of D.D. within a period of 30 days from the date of receipt of copy of this order. The petitioner shall appear for personal hearing before the second respondent before fresh orders are passed. It is made clear that the petitioner shall also co-operate with the second respondent and produce all the documents that are required for passing fresh orders on merits and in accordance with law. The second respondent shall also take note of the assessment orders passed for the



W.P.(MD) Nos.26966 and 26967 of 2022

respective Assessment Years 2012-2013 and 2013-2014 on 31.10.2022

while passing the fresh order, if it has any bearing to the facts of the case.

7. These Writ Petitions stand disposed of with the above directions.

No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
smn2

19.06.2024

To

- 1.The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner
of Commercial Taxes,
Ezhilagam, Chepauk, Chennai - 600 005.
- 2.The State Tax Officer (FAC),
Virudhunagar-I Assessment Circle,
Commercial Taxes Building,
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W.P.(MD) Nos.26966 and 26967 of 2022

C.SARAVANAN, J.

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Common order in
W.P.(MD) Nos.26966 and 26967 of 2022

19.06.2024