IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2025

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MRS.JUSTICE R. HEMALATHA

W.P.Nos. 14181 & 14183 of 2014
and
M.P.Nos. 1 & 1 of 2014

M/s. Primex Polymers,
Rep. by its Proprietor, Mr.Manish Kumar Jain,
No.160, Linghi Chetty Street,
Chennai. .. Petitioner
in W.P.No. 14181 of 2014

M/s. Jampex Trading,
Rep. by its Director Mr.Manish Kumar Jain,
No.160, Linghi Chetty Street,
Chennai – 600 001. Petitioner
in W.P.No. 14183 of 2014

vs

1.The Assistant Commissioner (CT), (FAC)
Esplanade I Assessment Circle,
No.118, Angappa Street,
Chennai – 600 001.

2.The State of Tamil Nadu
Rep. by its Secretary,
Commercial Taxes and Registration Department,
Fort St.George, Chennai – 600 009. .. Respondents
in both WPs

Prayer in W.P.NO. 14181 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call for the records of the first respondent in TIN. 33270100532/2011-12 quash the impugned proceedings dt Nil (Signed on 20/03/14) being contrary to the statutory provisions adumberated under section 70(3) of the Tamilnadu Value Added Tax Act, 2006 and the decision of the Tamilnadu Taxation Special Tribunal reported in 114 STC 570.

Prayer in W.P.NO. 14183 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call for the records of the first respondent in TIN. 33270100241/2011-12 quash the impugned proceedings dt Nil (Signed on 20/03/14) being contrary to the statutory provisions adumberated under section 70(3) of the Tamilnadu Value Added Tax Act, 2006 and the decision of the Tamilnadu Taxation Special Tribunal reported in 114 STC 570.

For Petitioner : Mr.V.Sundareswaran
(in all Writ Petitions)

For Respondents : Ms.Amrita Poonkodi Dinakaran
(in all Writ Petitions)

COMMON ORDER

(Order of the Court was made by Dr. ANITA SUMANTH.,J)

The challenge in these Writ Petitions is to orders of assessment, both dated Nil, signed on 20.03.2014, passed in terms of the Tamil Nadu Value Added Tax Act, 2006 (in short 'TNVAT Act') in respect of the period 2011-12. Mr.Sundareswaran, learned counsel for the assessees states that he has no instructions in these matters.

2. The only issue dealt with in the assessments relates to non-surrender of transit passes. The assessment orders stipulate categorically

that revision notice was issued to the assessees. This aspect of the matter is not in dispute, as the assessees have conceded to service of notice dated 05.12.2012 and 05.07.2013 respectively.

3. However, the assessments have been completed by order dated 20.03.2014 without personal hearing being offered to the assessee. A perusal of notices also reveals that there has been no opportunity afforded to the assessees for personal hearing which is mandatory.

4. For the aforesaid reason, we are of the considered view that there has been violation of principles of natural justice in this matter. As far as the merits are concerned, touching upon Section 70 of the TNVAT Act, the Supreme Court in *Sodhi Transport Co. V. State of Uttar Pradesh* (62 STC 381) has settled the position that the adverse presumption cast upon the transporter/dealer, is rebuttable.

5. Hence, it is incumbent upon the officer to have offered proper opportunity to the assessees to rebut the presumption cast by virtue of Section 70 of the TNVAT Act. The orders of assessment dated 20.03.2014 are set aside. There is a direction to the Assessing Authority to issue notice to the petitioners within a period of four (4) weeks from

DR. ANITA SUMANTH.,J.
and
R. HEMALATHA.,J.

date of receipt of a copy of this order, hear the assessees and pass orders within a period of four (4) weeks from date of personal hearing bearing in mind the observations of the Supreme Court in *Sodhi Transport Co.* (supra).

6. These Writ Petitions are disposed in terms of this order. No costs. Connected Miscellaneous Petitions are closed.

[A.S.M., J]   [R.H., J]
03.03.2025

Index:No
Speaking Order
Neutral Citation:Yes
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To
1.The Assistant Commissioner (CT), (FAC)
Esplanade I Assessment Circle,
No.118, Angappa Street, Chennai – 600 001.

2.The Secretary,
Commercial Taxes and Registration Department,
Fort St.George, Chennai – 600 009.

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