



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.08.2015

Coram

THE HONOURABLE MR.JUSTICE R.SUBBIAH

WEB COPY

W.P. (MD) .No.14814 of 2015
and
M.P. (MD) No.1 of 2015

Tvl.Raaghavendira Paper Mart,
Represented by its Proprietor
Thiru.S.Chokkalingam
D.No.38/6/7 Gandhi Road,
Sivakasi 626 123,
Viruthunagar District

:Petitioner

vs.

1.The Commissioner of Commercial Taxes,
2nd Floor, Elilagam, Chepauk,
Chennai - 600 005.

2.The Deputy Commercial Tax Officer - 11,
Enforcement Wing, Group No.-11,
C.T.Buildings, Satchayapuram,
Sivakasi, Virudhunagar District.

3.Commercial Tax Officer Enforcement Wing Gr.No.-II,
C.T.Buildings, Satchayapuram,
Sivakasi, Virudhunagar District.

: Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Mandamus, to direct the second and third respondents to refund or return the advance tax of Rs.1,68,636.00 and compounding fees Rs.2,000-00, totally Rs.1,70,636-00 collected from the petitioner, during the course of inspection on 3.8.2015, by Cheque Nos.00676 and 00677, dated 3.8.2015, Rs.1,68,636-00 & Rs.2000-00 of Karur Vysiya Bank, Sivakasi, respectively.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Mr.R.Karthikeyan

Addl.Govt. Pleader

O R D E R

The Writ Petition has been filed praying for issuance of a Writ of Mandamus, to direct the second and third respondents, to refund or return the advance tax of Rs.1,68,636.00 and compounding fees of Rs.2,000-00, totally a sum of Rs.1,70,636-00, collected from the petitioner, during the course of inspection on 3.8.2015,



by Cheque Nos.00676 and 00677, dated 3.8.2015 of Karur Vysiya Bank, Sivakasi, respectively.

2. The case of the petitioner is that he is a registered dealer under TNVAT Act, in the book of Assistant Commissioner (C.T.) Sivakasi-11, Assessment Circle, Sivakasi and TIN No. of the petitioner is 33135981234. The petitioner is a trader in paper and board. The petitioner has purchased paper under transit sales under Section 6(2)(b) of CST Act and sells the goods within the state by receiving the "C" Form declarations from the purchasers. While so, the 2nd and 3rd respondents inspected the place of business on 03.08.2015 and obtained a statement compulsorily from the petitioner by pointing out certain defects in statement. Thereafter, the 2nd and 3rd respondents had collected a compounding fee of Rs.2000/-, for non maintenance of Stock Registers, under VAT Act, 2006. That apart, the 2nd 3rd respondents have collected a sum of Rs.1,68,636.00, totally a sum of Rs.1,70,636-00 from the petitioner, by way of cheque, during the course of inspection on 3.8.2015, by Cheque Nos.00676 and 00677, dated 3.8.2015 of Karur Vysiya Bank, Sivakasi, respectively. The action of the 2nd and 3rd respondents is against the natural justice, illegal and arbitrary and also against the dictum laid down by this Court in various decisions. In support of his contention, the learned counsel has also relied on Judgments of this Court made in W.P(MD)No.8166 of 2012, dated 29.03.2012 and W.P.(MD)No.6672 of 2013, dated 18.04.2013, Hence, the petitioner has come forward with this present writ petition.

3. As rightly pointed out by the learned counsel for the petitioner, the decisions of this Court in the aforesaid writ petitions are squarely applicable to the case on hand. Therefore, following the dictum laid down in the aforesaid decisions made in W.P(MD)No.8166 of 2012, dated 29.03.2012 and W.P.(MD)No.6672 of 2013, dated 18.04.2013, the writ petition is liable to be allowed.

4. In the result, the Writ Petition is allowed and the respondents 2nd and 3rd are directed to refund the advance tax of Rs.1,68,636/- and compounding fee of Rs.2,000/-, collected from the petitioner, during the course of inspection on 3.8.2015, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Writs)

/True Copy/



To

1.The Commissioner of Commercial Taxes,
2nd Floor, Elilagam, Chepauk,
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2.The Deputy Commercial Tax Officer - 11,
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3.Commercial Tax Officer Enforcement Wing Gr.No.-II,
C.T.Buildings, Satchayapuram,
Sivakasi, Virudhunagar District.

+1cc to Mr.Mujibur Rahman, Advocate Sr.no.47716

mpk

AA/03.09.2015/3p-5c/

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