IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.14029 of 2014
and M.P.No.2 of 2014

M/s.Sujana Universal Industries Limited
Rep. by its Manager - S.Kannan,
No.6/9, Damodaran Street,
Chetput, Chennai - 600 031. .. Petitioner

Vs

The Assistant Commissioner (CT),
Egmore-II Assessment Circle,
No.88, Mayor Ramanathan Salai,
Chennai - 600 031. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records on the file of the respondent in his impugned proceedings of the respondent made in TIN:33751502597/2012-13 dated 02.05.2014, quash the same as being violative of the law laid down by this Hon'ble Court in (2013) 59 VST 256 (Mad) and that of the Hon'ble Apex Court in 109 STC 439 (SC) in so far as it pertains to reversal of ITC on purchases effected from Registration Cancelled dealers as well as reversal of ITC for the reason that the turnover reported by the seller is lesser than the turnover reported by the petitioner is against the decision rendered in (2013) 60 VST 283 (Mad).

For Petitioner : Mr.S.Rajasekar

For Respondents: Mr.Manokaran Sundaram
Additional Government Pleader

ORDER

Heard Mr.S.Rajasekar, learned counsel appearing for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader appearing for the respondents and with their consent, the writ petition is taken up for disposal.

2.The petitioner is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act (TNVAT Act) and in this writ petition, the petitioner has challenged the order of assessment under the TNVAT Act for the year 2012-13. Though three issues are involved in the impugned assessment, the petitioner has challenged only two issues in this writ petition, namely, (1) disallowance of ITC on the purchase from the registration cancelled dealers and (2) difference in turnover on annual scrutiny of monthly returns of buyer and seller.

3.These very issues have been decided in favour of the assessee in the case of Jinsasan Distributors vs. Commercial Tax Officer (CT), Chintadripet Assessment Circle, Chennai reported in (2013) 59 VST 256 (Mad), wherein this Court after hearing all the issues held that the petitioners had purchased the taxable goods from registered dealers who had valid registration certificates, paid the tax payable thereon, availed of input tax credit and the assessing officers had passed orders granting such benefit. Therefore, the assessment orders granting input-tax credit were validly passed. There was no cancellation of the registration certificates of the selling dealers at that point of time. The retrospective cancellation of the registration certificates issued to the selling dealers could not affect the right of the petitioners who had paid the tax on the basis of the invoices and thereafter claimed the benefit under Section 19 of the Tamil Nadu Value Added Tax Act, 2006. Therefore the notices, revised assessment orders and the provisional assessment order, seeking to deny the benefit of input-tax credit to the petitioners only on the ground that the registration certificates of the selling dealers had been cancelled with retrospective effect, were set aside.

4.The above decision is squarely applicable to the facts of the present case. Accordingly both the issues which arises for consideration are answered in favour of the petitioner and against the respondent. Hence, the writ petition is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

cse

To

The Assistant Commissioner (CT),
Egmore-II Assessment Circle,
No.88, Mayor Ramanathan Salai,
Chennai - 600 031.

1 cc to Special Government Pleader, sr.42183

W.P.No.14029 of 2014
and
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kra 30.08.2016