IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 06.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.18955 of 2016 &

W.M.P.No. 16524 of 2016

1 M/s.Guru Computers P Ltd [PETITIONER]
7 Narasingapuram Street
Chennai-600 002

Vs

1 The Assistant Commissioner (CT)
Chepauk Assessment Circle
Annex to PAPJYM Buildings
NO.1 Greams Road 1st Floor
Chennai-600 006.
[RESPONDENT]

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of certiorari to call for the records of the respondent in TIN/33750662771/ 2012-13 and quash the order dt.17.05.2016 passed therein.

For Petitioner : Mr.L.Muralikrishnan

For Respondent : Mr.Manokaran Sundaram
Additional Government Pleader

O R D E R

Heard Mr.L.Muralikrishnan, learned Counsel appearing for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader accepting notice on behalf of the respondent and with the consent of learned counsel appearing on either side, this writ petition is taken up for final disposal.

2.The petitioner is a registered dealer under the provisions of the Tamil Nadu Value Added Tax, 2006 (herein after referred to as the 'Act'). The challenge in the present writ petition is to an order of assessment which has been made by the respondent for the year 2012-13, disallowing the input tax credit, on the ground that the Registration of the selling dealer had been cancelled.

3.The petitioner in response to the said order pointed out that their supplier M/s Manav Enterprises had filed a Writ Petition before this Court challenging the order passed by their jurisdictional officer, cancelling the registration with retrospective effect. The said Writ Petition in W.P.No.8254 of 2013 was allowed and the order of cancellation passed by the jurisdictional officer viz. Assistant Commissioner (CT), Mooremarket (South) Assessment Circle dated 25.2.2013, was quashed and the matter was remitted to the respondent for fresh consideration.

4.It appears that the matter is still under the scrutiny and consideration of the said Assessing Officer. .In the meantime, the respondent herein proposed to reverse the input tax credit availed by the petitioner. The petitioner pointed out that on the date when the supply was effected to the petitioner, their supplier was a registered dealer and they had also produced their returns. It is a settled legal position that cancellation of registration cannot be with retrospective effect and this position is well settled by the decision of this Court in the case of JINASEASAN DISTRIBUTORS v. COMMERCIAL TAX OFFICER (CT), CHINTADRIPET ASSMT. CIRCLE, CHENNAI [(2013) 59 VST 256 (Mad)]. Therefore, on both the grounds, namely that as on date, the order of cancellation of registration of the petitioner's supplier has been set aside and the cancellation could not have been with retrospective effect and as held in the aforesaid decision, and furthermore on the date when supplies were effected in favour of the petitioner, the supplier had a valid registration.

4.Hence, for all the above reasons, the Writ Petition is allowed and the impugned order is set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar(CSII)

True Copy

Sub-Assistant Registrar

rpa

To

1 The Assistant Commissioner (CT)
Chepauk Assessment Circle
Annex to PAPJYM Buildings
NO.1 Greams Road 1st Floor
Chennai-600 006.

+1 cc to M/s.L.Muralikrishnan Advocate sr.29901
+1 cc to Special Government Pleader sr.29932

W.P.No.18955 of 2016

Ivj(co)
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