In the High Court of Judicature at Madras

Dated: 14.12.2016

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The Honourable Mr.JUSTICE RAJIV SHAKDHER

W.P.Nos.40820 to 40824 of 2016
and WMP Nos.34801 and 34810 of 2016

M/s.Chennai Stationers,
represented by its Proprietor
No.22/14, Kasi Chetty Street,
Chennai - 600 079.
.... Petitioner in the above W.Ps.

Vs

1 The Commercial Tax Officer,
Sowcarpet Assessment Circle,
No.48/39, Rajaji Salai, 2nd Floor,
Chennai - 600 001.

2.The Branch Manager,
Laxmi Vilas Bank, GN Street Branch,
No.244, 1st Floor,
Govindappa Naicken Street,
PB No.1633, Chennai - 600 001.
.... Respondents in the above W.Ps

Prayer: PETITION filed under Article 226 of The Constitution of India praying for issuance of Writ of Certiorari to call for the impugned proceedings of first respondent in TIN.33890242102/2010-11, 2011-2012, 2012-2013, 2013-2014 and 2014-2015 and quash the order dated 15.9.2016 as passed contrary to theprovisions of the TNVAT Act and against principles of natural justice.

For Petitioner : Mr. P.Rajkumar
For Respondents : Mr.S.Kanmani Annamalai, AGP

C O M M O N O R D E R

1. By virtue of these Writ Petitions, challenge is laid to five (5) separate orders of even date, i.e., 15.09.2016 passed by respondent No.1.

1.1. Vide the impugned orders, respondent No.1 has reversed the input credit for five (5) Assessment Years (A.Ys), spanning from A.Y.2010-2011 to A.Y.2014-2015. In addition via the impugned orders, respondent No.1 has also imposed penalty.

1.2. The details of the reversal of input credit and the penalty imposed qua each of the five (5) A.Ys is set forth herein below:

Act	*Year*	*Tax*	*SC*	*ASC*	*AT*	*Penalty*	*Total*
VAT	2010-2011	10,021	-	-	-	10,021	20,042
VAT	2011-2012	4,89,835	-	-	-	4,89,835	9,79,670
VAT	2012-2013	1,78,929	-	-	-	1,78,929	3,57,858
VAT	2013-2014	8,16,559	-	-	-	8,16,559	16,33,118
VAT	2014-2015	1,49,095	-	-	-	1,57,245	3,06,340

2. The petitioner's case is that he was unable to file objections due to illness. On merits, however, the petitioner says that broadly there are two grounds on which input credit has been reversed: First, that the sellers had failed to report their sales to the Department. In other words, there is a mismatch between the figures given in the Department's website and those otherwise available on its record. Second, that purchase transaction have been effected with those sellers whose registration has been cancelled.

3. According to the learned counsel for the petitioner, these issues are covered by the judgment of the Division Bench of this Court in the case of: *The Assistant Commissioner (CT) V. M/s.Althaf Shoes (P) Limited*, passed in W.A.Nos.1367 and 1368 of 2016 dated 10.11.2016.

3.1. Furthermore, learned counsel for the petitioner says that, at the time when notice was issued in the matter, since, objections had not been filed, the petitioner was directed to deposit a sum of Rs.2,50,000/-, which roughly amounted to 15% of the tax. It is further submitted that stay was granted by this Court vide order dated 18.11.2016, subject to fulfilment of the said condition.

3.2. Counsel for the petitioner says that a sum of Rs.2,50,000/- has been deposited with the respondent.

3.3. Mr.Kanmani Annamalai, who appears for respondent No.1 affirms that the said amount has been deposited, and therefore, the condition of interim stay stands complied with.

4. In these circumstances, the Writ Petition is disposed of with the following directions:

4.1. The impugned order is set aside giving liberty to the petitioner to prefer his objections to the notice dated

09.03.2016, within a period of two (2) weeks from the date of receipt of a copy of this order.

4.2. Upon receipt of objections, respondent No.1 shall pass a fresh order taking into account the submissions made in the objections preferred by the petitioner as well as after affording an opportunity of personal hearing to the petitioner.

5. Needless to say, respondent No.1 will complete the exercise with due expedition, though, not later than eight (8) weeks from the date of receipt of a copy of the said objection.

6. Resultantly, connected Miscellaneous Petitions shall stand closed. However, there will be no order as to costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1 The Commercial Tax Officer,
Sowcarpet Assessment Circle,
No.48/39, Rajaji Salai, 2nd Floor,
Chennai - 600 001.

+1 CC to Mr. P. Rajkumar Advocate Sr 72786

+1 CC to M/s. Govt. Pleader SR 73046

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