IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.41805 of 2016 &
W.M.P.No.35783 of 2016

Tvl.Shrivik,
Rep. by its Proprietor,
V.Raju,
130, Tiny Sector, SIDCO Estate,
Ambattur, Chennai-600 098. .. Petitioner

Versus

The Assistant Commissioner (CT),
Korattur Assessment Circle,
No.52/98, Yadhaval Street,
Padi, Chennai-600 050. .. Respondent

Prayer: This 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 his proceedings in CST/840535/2007-08, dated 13.10.2016 and quash the same as illegal.

For Petitioner : Mr.P.R.Kumar

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.P.R.Kumar, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondent.

2. The petitioner, who is a registered dealer on the file of the respondent, under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the 'TNVAT Act'), has challenged the order of assessment passed by the respondent for the year 2007-08, dated 13.10.2016.

3. The reason assigned in the impugned order is that the petitioner has not produced the original 'C' forms and unless he

produces the same, concessional rate of tax cannot be adopted. To ascertain the correctness of the said stand, the learned Government Advocate was directed to get instructions. Accordingly, the learned Government Advocate produced the original assessment file. This Court perused the original file and compared the original 'C' forms with the photostat of the duplicate copy produced by the petitioner and one such form was taken up for perusal found at page No.167 of the assessment file. When this was compared with the photostat copy at Page 193, this Court finds that there is no discrepancy.

4. In any event, the respondent can always verify the genuineness of the transactions by referring to the duplicate copy, which in fact the original, so far as the petitioner is concerned. These copies have been given by the petitioner and it is found in the assessment file. Therefore, the respondent should examine the 'C' forms produced by the petitioner, verify all the documents and if the same is found to be genuine, the respondent should give credit to the 'C' forms and accordingly, extend concessional rate of tax.

5. In the light of the above, the Writ Petition is allowed and the impugned order is set-aside and the matter is remanded to the respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner and examine the 'C' forms produced by the petitioner and redo the assessment in accordance with law. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT),
Korattur Assessment Circle,
No.52/98, Yadhaval Street,
Padi, Chennai-600 050.

+1cc to the Special Government Pleader Sr.70720
+1cc to Mr.P.R.Kumar, Advocate Sr.70374

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srg 02/12/2016