IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.9392 of 2017
and
WMP No.10359 of 2017

Tvl. Sankeshwar Agencies
Rep. By its Proprietor Sheela Jain
No.30/48, Ground Floor, Thacker Street
Purasawalkam, Chennai-600 007. ... Petitioner

Vs.

The Commercial Tax Officer
Purasawalkam Assessment Circle
No.F-50, First Floor, First Avenue,
Anna Nagar, Chennai. ... Respondent

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records of the respondent in TIN No.33520482720/2011-12 dated 02.01.2017 quash the same.

For Petitioner : Mr.S.Raveekumar

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader(Tax)

O R D E R

The petitioner is aggrieved by the order of assessment dated 02.01.2017 passed in respect of assessment year 2011-2012. The Assessing Officer has chosen to impose the tax liability only on the reason that the petitioner has effected the purchases from the dealers, whose registration was cancelled prior to the sales.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent.

3. When the matter was taken up for admission earlier on 18.04.2017 and again on 21.04.2017, the learned Government Advocate was directed to verify, as to whether the cancellation of the registration certificates of those dealers had taken place retrospectively. Today, when the matter is taken up for further hearing, the learned Additional Government Pleader (Tax), based on instructions, submitted that those dealers' registration was cancelled retrospectively. Therefore, it is an admitted position that when the purchases were effected by the petitioner from those dealers, their respective registration was in force.

4. Since the issue involved in this writ petition is similar to one decided in a case reported in [2013] 59 VST 256 (Mad) Jinsasan Distributors v. Commercial Tax Officer (CT), Chintaripet Assessment Circle, Chennai, affirmed by the Divisional Bench of this Court reported in [2016] 96 VST 315 (Mad) Assistant Commissioner (CT), Broadway Assessment Circle, Chennai v. Bhairav Trading Company, it is represented by the learned counsel appearing for both sides that the Input Tax Credit cannot be denied to the Assessee, only on the ground that the registration certificate of the dealers was cancelled with retrospective effect.

5. Considering the fact that the issue involved herein is already decided in favour of the petitioner and considering the fact that the impugned order of assessment has been passed only for the reason that the purchase from the dealers whose registration was cancelled later with the retrospective effect, I am of the view that the petitioner is entitled to succeed by applying the above decision of this Court, in [2013] 59 VST 256 (Mad) Jinsasan Distributors v. Commercial Tax Officer (CT), Chintaripet Assessment Circle, Chennai and [2016] 96 VST 315 (Mad) Assistant Commissioner (CT), Broadway Assessment Circle, Chennai v. Bhairav Trading Company.

6. Accordingly, this writ petition is allowed and the impugned order is set aside. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer
Purasawalkam Assessment Circle
No.F-50, First Floor, First Avenue,
Anna Nagar, Chennai.

+1cc to Mr.S.Raveekumar, Advocate, S.R.No.24908
+1cc to the Special Government Pleader(Taxes), S.R.No.25226

W.P.No.9392 of 2017

NM(CO)
CA(02/05/2017)