IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.NO.228 OF 2017
AND WMP NO.220 OF 2017

Tvl. Murugan Garments
Represented by its Proprietor K.Ayyasamy
No.15/3, SNVS Layout 1st Street,
Kongu Main Road,
Tirupur - 7. ...Petitioner

Vs.

The Assistant Commissioner (CT) (FAC)
Kongunagar Assessment Circle
Tirupur. ...Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorari, to call for the records on the file of the respondent in TIN. 33572441268/2013-14 dated 12.12.2016 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

1. Issue notice. Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) accepts notice on behalf of the respondent. With the consent of learned counsels for the parties, the writ petition is taken up for hearing and final disposal.

2. By virtue of the captioned writ petition, challenge is laid to order, dated 12.12.2016, whereby, Input Tax Credits (in short "ITC") has been reversed.

3. The sole ground, on which, the reversal of Input Tax Credit has taken place is that the information available on the Department's website did not match with the information supplied by the petitioner, in its monthly returns. In other words, on account of the mismatch in the information, the ITC has been reversed.

4. The captioned writ petition pertains to 2013-2014. The ITC reversed is a sum of Rs.1,54,585.00, after making due adjustments.

5. Counsel for the petitioner, in my view, correctly argues that reversal of ITC, on the basis of a mere mismatch in information, could not have taken place, and that, this issue is covered by various judgments passed by this Court. For this purpose, learned counsel for the petitioner inter-alia relies upon the following judgments:

(i) ALTHAF SHOES (P) LTD. VS. ASSISTANT COMMISSIONER (CT), VALLUVARKOTTAM ASSESSMENT CIRCULE, CHENNAI [2012 (50) VST 179 (Mad)]

(ii) SRI VINAYAGA AGENCIES VS. ASSISTANT COMMISSIONER (CT), VADAPALANI - I ASSESSMENT CIRCLE, CHENNAI AND ANOTHER [2013 (60) VST 283 (Mad)]

(iii) INFINITI WHOLESALE LIMITED VS. ASSISTANT COMMISSIONER (CT), KOYAMBEDU ASSESSMENT CIRCLE, KOYAMBEDU, CHENNAI [2015 (82) VST 457 (Mad)].

6. Mr.S.Kanmani Annamalai, learned Additional Government Pleader, who appears for the respondent, cannot, but, submit, that the issue is covered by the aforesaid judgments of this Court.

7. I may also note that the Division Bench of this Court, has also taken the same view, vide order, dated 09.09.2016, passed in W.A.No.775 of 2016, titled: The Assistant Commissioner (CT) Presently Thiruverkadu Assessment Circle, Chennai Vs. M/s.Infiniti Wholesale Ltd., (Formerly known as Woolworths Wholesale (India) Pvt. Ltd., Chennai.

8. In view of the above, the impugned order is set aside. The respondent is directed to rework the assessment bearing in mind the judgments referred to above.

9. The writ petition is disposed of, in terms of the direction, issued herein. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

TK

To

The Assistant Commissioner (CT) (FAC)
Kongunagar Assessment Circle
Tirupur.

SK(CO)
RS(25/01/2017)

W.P.NO.228 OF 2017