



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.04.2017
CORAM

THE HONOURABLE MR. JUSTICE **S.S. SUNDAR**
W.P. (MD). No. 5567 of 2017 and
W.M.P. No. 4450 of 2017

WEB COPY

TVL. RAJTYRES,
Represented by its Proprietor
C. Rajkumar, aged about 31 years,
S/o R. Chinnadurai,
No. 36-J10, K.T Complex,
Dindugal Road,
Oddanchatram,
Dindugal District-624 619

.. Petitioner

Vs.

1. The Commissioner of commercial taxes,
O/o The principal and special Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2. The Commercial Tax Officer-II,
Palani - II Assessment Circle,
No. 12, 1st Cross Street,
R.S. Ramalingam Street, Shanmugapuram,
Palani,
Dindugal District- 624 601.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus or any other appropriate Writ or any order or direction in the nature of a Writ calling for records pertaining to the impugned proceedings of the 2nd respondent in TIN:33705362885/2014-15 dated 09.12.2016 and quash the same and consequently direct the 2nd respondent to re-do the assessment afresh after giving adequate opportunity to the petitioner.

For Petitioner : Mr. B. Rooban

For Respondents : Mr. R. Karthikeyan
Additional Government Pleader

O R D E R

The learned Additional Government Pleader earlier stated that this is a case, where the reversal of input tax credit and levy of tax due to purchase supersession are challenged on various grounds. The assessing authority has recorded that the



suppression of purchases by the assessee as per the details collected through department internet has not been disproved by materials and hence the proposed assessment was confirmed by the Assessing Officer. This Court after going through the records, requested the Additional Government Pleader to verify whether the Department can consider the documents now made available by the assessee.

2. The learned Additional Government Pleader, after getting instructions reported that the petitioner has got some case on the basis of the records now produced by the assessee before this Court. Hence, the learned Additional Government Pleader also agree with this Court that the petitioner may be given an opportunity by remitting the matter to the Assessing Authority. However, the Learned Additional Government Pleader requested this Court to direct the petitioner to deposit 30% of the tax demanded as per the impugned proceedings.

3. Considering the submissions of learned Counsel for the petitioner as well as the learned Additional Government Pleader for the respondent, this Court is of the view that the impugned order can be set aside and the matter can be remitted to the assessing authority to pass fresh order on merits after giving an opportunity to the petitioner to submit his reply to the proposed revision of tax and to produce records.

4. Hence, this Court pass following order.

The impugned order by proceedings reference TIN:33705362885/2014-2015 dated 09.12.2016 is set aside and the matter is remitted to the assessing authority namely the second respondent. The petitioner is directed to file his reply to the proposed revision notice dated 28.09.2016. The petitioner is also permitted to produce the documents within a period of two weeks from the date of receipt of copy of this order. Thereafter, the second respondent is directed to consider the petitioner's reply and documents in accordance with law and on merits within a period of 6 weeks thereafter. The petitioner is directed to pay 30% of Rs.6,11,920/- within a period of four weeks from the date of receipt of a copy of this order.

5. The Writ petition is disposed of accordingly. No costs. Consequently connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar



To

1.The Commissioner of commercial taxes,
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Chennai - 600 005.

2.The Commercial Tax Officer-II,
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R.S.Ramalingam Street, Shanmugapuram,
Palani,
Dindugal District- 624 601.

+1cc to SPECIAL GOVERNMENT PLEADER in SR. No.50639

+1cc to M/s.B.ROOBAN Advocate in SR. No.5567

TA/CP

js/MR/18.05.2017/3P-5C

ORDER MADE IN

W.P. (MD) .No.5567 of 2017
05.04.2017