IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.12165 of 2018
&
W.M.P.No.14191 of 2018

Aarthy Enterprises,
Represented by its proprietrix,
D.Chitra,
3/318, Subramaniya Nagar,
6th Street, Madippakkam, Chennai. ... Petitioner

Vs.

The Commercial Tax Officer,
Chrompet Assessment Circle,
117, Station Road, Radha Nagar,
Chennai - 600 044. ...Respondent

Prayer: Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the records on the files of the Respondent herein in TIN 33170945457/2012-13 dated 06.04.2018, and quash the same.

For Petitioner : Mr.R.Kumar
For Respondent : Mr.M.Hariharan
Additional Govt. Pleader

O R D E R

Heard Mr.R.Kumar, learned counsel appearing for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader appearing for the respondent.

2.In the light of the glaring error which is apparent on the face of the record, 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, has filed this writ petition, challenging the revision of assessment under the said Act for the Assessment Year 2012-13.

3.The only issue arises for consideration is whether the respondent is justified in reversing the Input Tax Credit availed by the petitioner on the alleged ground that they effected purchases from Registration Cancelled Dealers. When the respondent issued revision notice dated 16.02.2018, the petitioner submitted a detailed reply and produced the returns filed by the selling dealers for the Assessment year 2012-13. Subsequently, the petitioner has also obtained information from the official web portal of the Commercial Taxes Department, which shows that the Registration of the said selling dealer M/s.Ramanathan Chettiar, Chennai, was cancelled only on 30.09.2013. Thus, for the relevant Assessment year, namely Assessment Year 2012-13, the selling dealer's registration was very much valid. Therefore, the respondent could not have reversed the Input Tax Credit on the said ground.

4. One more aspect which this Court is convinced to interfere with the impugned Assessment Order is, the respondent is not sure whether the Registration Certificate of the selling dealer was cancelled as he uses the expression 'appears'. The petitioner having furnished the relevant details, the respondent ought to have considered the same and dropped the proposal. Without doing so, passing such a vague order, especially when the petitioner has produced the returns filed by the selling dealer for the relevant Assessment Year, is wholly unsustainable.

For the above reasons, the writ petition is allowed and the impugned order dated 06.04.2018 is quashed insofar as it relates to the Input Tax Credit availed by the petitioner to the tune of Rs.1,78,527/- and the respondent is directed to drop the proposal and pass appropriate orders as directed by this Court. No costs. Consequently, t he connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar



gpa
To

The Commercial Tax Officer,
Chrompet Assessment Circle,
117, Station Road, Radha Nagar,
Chennai - 600 044.

+1 CC to Mr.R. Kumar, Advocate sr 36297.
+1 CC to Govt. Pleader sr 36731

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SP(20/06/2018)