IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 02.11.2018

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.29259 of 2018
and
W.M.P.No.34186 of 2018

Tvl SAS Exports,
6/573, Plot No.9, 7th Cross Street,
Kovilambakkam,
Chennai - 600 117. .. Petitioner

Vs.

The Assistant Commissioner,
Madipakkam Assessment Circle,
Chennai - 600 100. .. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records in CST No.1248095/2014-2015 dated 10.09.2018 on the file of the respondent and quash the same.

For Petitioner : Mr.A.Thiagarajan,
Senior Counsel
for M/s.N.Baaskaran

For Respondent : Mr.M.Hariharan,
Additional Government Pleader (Tax)

O R D E R

Mr.M.Hariharan, learned Additional Government Pleader (Tax) takes notice for the respondent and by consent of parties, this writ petition is taken up for final disposal at the admission stage itself, since the issue involved in this case is directly covered in favour of the petitioner by the decision of this Court in various writ petitions, out of which, one is dated 08.06.2017 made in W.P.No.7361 of 2017.

2. The petitioner is aggrieved against the order of assessment dated 10.09.2018 passed in respect of the assessment year 2014-2015. The Assessing Officer has brought the entire turn over for levy of tax on higher rate by ignoring the C-forms issued by the other end dealer on the sole reason that the

registration of such other end dealer was cancelled retrospectively and consequently such C-form issued by the dealer cannot be taken into account, even though the same was issued when such dealer was having the valid registration during the transaction time.

3. The issue as to whether the Assessing Authority relying on the cancellation of the registration certificate retrospectively is justified for imposing tax and penalty has already been considered by this Court in favour of the assessee and one such order was passed in W.P.No.6993 of 2017 dated 22.03.2017, wherein it is held as follows:

> 3. 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.
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> 4. 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.
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> Accordingly, this writ petition is allowed and the impugned order is set aside.

4. The said order was followed by this Court in very many cases, out of which, one order in W.P.No.7361 of 2017 dated 08.06.2017.

5. Considering the above stated facts and circumstances and the considering the particular fact that on the date of the transaction, the other end dealer was having the registration in force and that such registration was cancelled only retrospectively, I am of the view that the petitioner is also entitled to the benefit of the order passed in the above cases, as the issue is squarely covered in favour of the petitioner. Accordingly, the Writ Petition is allowed and the impugned order is set aside. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

vsi

To

The Assistant Commissioner,
Madipakkam Assessment Circle,
Chennai - 600 100.

+1 cc to M/s.N.Baaskaran, Advocate Sr.No.75935

W.P.No.29259 of 2018

CSL/20.11.2018