BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2018

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THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.(MD)No.10045 and 10046 of 2018
and
W.M.P.(MD)No.9173 and 9174 of 2018

M/s.K.S.A.Velladurai Traders,
Represented by its Proprietor,
Sri Senthil Andavar Modern Rice Mill,
67/3, Kottur Road,
Palayamkottai – 627 002. ... Petitioner in both W.Ps

-Vs-

The State Tax Officer,
Palayamkottai Assessment Circle,
Palayamkottai. ...Respondent in both W.Ps

Common Prayer: Writ Petitions - filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in the impugned order in TIN No.33265566342/2012-13 and TIN No.33265566342/2014-15 dated 04.08.15 quash the same and direct the respondent to revise the assessment after considering the rectification petitions filed by the petitioner to rectify the error apparent on the face of the order.

For Petitioner : Mr.K.Vaitheeswaran

For Respondent : Mrs.J.Padmavathi Devi
Special Government Pleader
(in both W.Ps)

COMMON ORDER

The petitioner is a registered dealer under the provisions of Tamil Nadu Value Added Tax Act, 2006, [hereinafter referred to as “the TNVAT Act”]. He is a distributor of M/s.PEPSICO India Private Limited and in the habit of filing monthly returns regularly.

2. In respect of the assessment year 2012-13, there was a tax demand of Rs.14,92,635/- and penalty of Rs.22,38,952/-. According to the petitioner, total purchase for the month of December 2012 to March 2013 was to the extent of Rs.1,39,44,334/- and tax paid

on purchase was to the extent of Rs.18,04,034/-. Likewise, total sales for the Months between December 2012 to March 2013 was to the extent of Rs.98,15,214/- and tax paid on the sales was to the extent of Rs.12,59,108/-. The closing stock for the the assessment year 2012-13 was Rs.41,29,120/- and ITC available at the end of the year was Rs.5,44,926/- as per his returns. But while passing assessment order, the payment of tax to the tune of Rs.12,59,108/- was not taken into account, which resulted demand of his tax and penalty as stated above.

3. In respect of the assessment year 2014-15, there was a tax demand of Rs.1,23,34,001/- and penalty of Rs.5,09,995/-. According to the petitioner, total purchase for the assessment year 2014-15 was to the extent of Rs.10,63,71,394/- and tax paid on purchase was to the extent of Rs.1,36,14,166/-. Likewise, total sales for the assessment year 2014-15 was to the extent of Rs.10,59,84,319/- and tax paid on the sales was to the extent of Rs.1,34,69,102/-. The closing stock for the the assessment year 2014-15 was Rs.3,87,075/- and ITC available at the end of the year was Rs.8,83,967/- as per his returns. But while passing assessment order, the Adjustment on ITC to the tune of Rs.1,34,69,102/- was not taken into account, which resulted demand of his tax and penalty as stated above.

4. Aggrieved over the error made in the assessment orders, the petitioner filed an objection under Section 84(1) of the Act, for rectification of the error. However, the respondents have not considered the petitions submitted by the petitioner for rectification. Hence, the petitioner filed the writ petitions.

5. On notice, the respondents appeared before this Court and filed statement of accounts. From the perusal of the statement, it is seen that the payment of tax made by the petitioner has not been considered, while passing the assessment orders.

6. In such circumstances, this Court is inclined to direct the respondents to have a re-look into the assessment orders and process the rectification petitions filed by the petitioner within a period of one month from the date of receipt of a copy of this order. While doing so, the petitioner shall be given an opportunity of personal hearing to explain his accounts.

7. In the result, the writ petitions are ordered with the above direction. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

The State Tax Officer,
Palayamkottai Assessment Circle,
Palayamkottai.

+ 1 cc TO The Special Government Pleader in SR No. 68849

am
AE/SV MMS/SAR1/28.06.2018/3P/3C

Common Order made in
W.P.(MD)No.10045 and 10046 of 2018
Dated:
19.06.2018