IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.10.2019
CORAM
THE HONOURABLE DR. JUSTICE ANITA SUMANTH
Writ Petition No.29880 of 2015
and M.P. No.1 of 2015

M/s.J.K.Leathers,
rep. By its Proprietor
No.19/A/4, Kellys Road,
Navalpur, Ranipet - 632 401. ...Petitioner

Vs

Assistant Commissioner (CT),
Ranipet Assessment Circle,
Vellore District. ... Respondent

Prayer: PETITION filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorari to call for the records of the respondent in his proceedings in TIN No.33374281953/2006-07 dated 03.02.2015 and quash the order passed therein as illegal and barred by limitation as per the provisions of TNVAT Act.

For Petitioner : Mr.C.Baktha Siromoni

For Respondents : Mr. M. Hariharan, GA

O R D E R

The petitioner is a dealer in leather and an assessee in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') on the file of the respondent herein. The petitioner has admittedly not filed monthly returns as required in terms of Section 21 of the Act read with Rule 7(1) of the Tamil Nadu Value Added Tax Rules, 2007 (in short, 'Rules') in time. Returns were first filed for the months of January, February and March of 2007, only on 30.06.2007. Inter alia Input Tax Credit (ITC) of amount of Rs.28,642/-, 77,495/- and 59,968/- was claimed in respect of the months of January, February and March, 2007.

2. The Assessing Authority vide impugned order dated 03.02.2015 took the view that the provisions of Section 19(11) of the Act require the assessee to claim ITC either before the end of the financial year or 90 days from the date of purchase. Since the timelines as stipulated had not been followed, the claim of Rs.1,66,105/- was proposed to be reversed and the aforesaid proposal was confirmed under impugned order dated

03.02.2015. It is as against the aforesaid reversal that the petitioner has approached this Court.

3. The Tamil Nadu Value Added Tax Act, 2006 was enacted with effect from 01.01.2007, the provisions of the Tamil Nadu General Sales Tax Act, 1959 being in operation till 31.12.2006. There is no quarrel with the position that the petitioner has not complied with the statutory requirements for the months of January, February and March 2007. However, since the Statute was an entirely new phenomenon at that juncture, I am of the view that the petitioner can be shown some leniency in the matter of claim of ITC. This is also for the reason that though the claim has been made by the petitioner belatedly only on 30.06.2007, there is, admittedly no dispute on the position in regard to the entitlement of the petitioner to ITC and neither the impugned order nor the counter filed by the respondent dispute the position that the petitioner is entitled to the claim of ITC. The action of the Assessing Authority is defended only on the ground that the claim was belated.

4. This Writ Petition is thus allowed, making it clear that this order shall not stand as a precedent, in other cases. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IV)

// True Copy//

Sub Assistant Registrar

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To

Assistant Commissioner (CT),
Ranipet Assessment Circle,
Vellore District.

+1cc to Government Pleader, SR.No.86148.

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BR (CO)
CSR(30/12/2019)