**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: **29.03.2019**

CORAM

**THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

**W.P.(MD).No.7460 of 2019**

Tvl.G.S.M. Plus India,
Rep., by its Partner:N.Gurusamy,
No.10, Ayyanar Kovil, 5th street (Extn.,)
Sellu, Madurai 635 002 ... Petitioner

-vs-

1) The Assistant Commissioner (ST),
Chokikulam Assessment Circle,
Madurai 20

2) The Deputy Commissioner (ST),
Madurai (East),
Madurai - 20 ... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the respondent in TIN:33085003453 dated 22.02.2019 quash the same as illegal, invalid and contrary to the provisions of Section 18 of the Tamil Nadu Value Added Tax Act, 2006 and further direct the 1st respondent herein to accept the petitioner's application for refund in Form-W for the period of May 2013 to March 2016 filed manually under Rule 11(2) of Tamil Nadu Value Added Tax Rules 2007 and to grant refund of the input tax of Rs.43,61,879/- paid by the petitioner for the period of May 2013 to March 2016 as per Section 18(2) of the Tamil Nadu Value Added Tax, 2006.

For Petitioner : Mr.A.Chandrasekaran

For Respondents : Mr.M.Jeyakumar,
Additional Government Pleader

**O R D E R**

The instant writ petition has been filed challenging the order dated 22.02.2019 passed by the first respondent in TIN:33085003453 on the rejection of the refund application filed by the petitioner under section 18(2) of the Tamil Nadu Value Added Tax (TN VAT) Act, 2006.



2. This Court has perused the impugned order. The only ground for rejection is that the petitioner has not submitted the Form (W) electronically but has submitted the same manually. The refund

application pertains to May 2013 to March 2016. According to the petitioner, even prior to the Amendment of Rule 11(2) of the TN VAT Rules 2007 which came into force on 29.01.2016, the refund application was submitted by the petitioner. But by total non-application of mind, the first respondent has passed the impugned order rejecting the refund application on the ground that the petitioner has not filed the refund application along with Form (W) electronically.

3. Admittedly, in the instant case, the refund application was submitted prior to the Amendment of TN VAT Rules which came into force on 29.01.2016. In fact, this Court by its order dated 13.11.2017 in W.P.(MD) No.20761 of 2017, in a writ petition filed by the same petitioner directed the respondents to pass final orders to consider the refund application filed by the petitioner on merits. But as seen from the impugned order, it is a non-speaking order.

4. Heard Mr.A.Chandrasekaran, learned counsel for the petitioner and Mr.M.Jeyakumar, learned Additional Government Pleader accepts notice for the respondents.

5. Learned counsel for the petitioner drew the attention of this Court to the order passed by the learned Single Judge of this Court in W.P.No.645 of 2019 dated 10.01.2019, in the case of ***Tvl.Madhu Jayanthi International Private Limited vs., The State Tax Officer, Coimbatore*** wherein the learned Single Judge has held that even if the refund application, along with Form-W is submitted in a manual form, that cannot be a ground for rejection of the refund application.

6. This Court is in agreement with the submissions made by the learned counsel for the petitioner that the impugned order has been passed by the first respondent by total non-application of mind. Accordingly, the impugned order dated 22.02.2019 is hereby quashed and the matter is remanded back to the first respondent for fresh consideration and the first respondent shall pass final orders after affording sufficient opportunity to the petitioner including granting the right of personal hearing by accepting the refund application submitted by the petitioner in manual form in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. With the aforesaid directions, the **Writ Petition is Allowed.** No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //



Sub Assistant Registrar(CS )

sts

To

1) The Assistant Commissioner (ST),
   Chokikulam Assessment Circle,
   Madurai 20

2) The Deputy Commissioner (ST),
   Madurai (East),
   Madurai - 20.

1 CC to M/s.A.CHANDRASEKARAN, Advocate ( SR-58021[F] dated 01/04/2019 )

+1 CC to M/s.SPL GP ( SR-58327[F] dated 02/04/2019 )

+1 CC to M/s.M. JAYAKUMAR, Advocate ( SR-5048[D] dated 16/04/2019 )

Order made in
**W.P.(MD).No.7460 of 2019**

**DS/ /SAR- (15.04.2019) 3P 6C**