BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.07.2019
CORAM
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.14424 of 2016
and W.M.P(MD)No.10687 of 2016

Tvl.Muppuliyan and Co,
Rep. by its Proprietor,
L.Shanmugam. ... Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner
of Commercial Taxes, Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Commercial Tax Officer,
Thiruppathur Assessment Circle,
Commercial Taxes Office,
5/4, 56, Chinna Thoppu Street,
Thiruppathur, Sivagangai District - 630 211. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari, calling for the records pertaining to the impugned proceedings of the second respondent in TIN 33645502016, 2014-15 dated 11.07.2016.

For Petitioner : Mr.R.Veeramanikandan

For Respondents : Mr.A.Thiyagarajan,
Government Advocate.

ORDER

Heard Mr.R.Veeramanikandan, learned counsel for the petitioner and Mr.A.Thiyagarajan, learned Government Advocate for the respondents.

2.An order of assessment passed in terms of Section 21 of the Tamil Nadu Value Added Tax Act, 2006 (In short 'Act') for the period 2014-15 is assailed in this Writ Petition.

3.A pre-revision notice dated 06.04.2016 appears to have been issued by the second respondent / assessing authority, proposing to reverse Input Tax Credit (in short 'ITC') on the basis of a verification of the Intranet Web report containing the details of sales in the returns of turnover filed by the selling dealers and a comparison thereof with the sale details supplied by the petitioner in its returns.

4.In response, the petitioner has vide letter, dated 23.04.2016 specifically requested the officer to provide the invoice-wise particulars as well as the third party dealer details, upon receipt of which, it has sought an opportunity to file objections and explanations as well as evidences in support of its claim of ITC such as purchase invoice and accounts. The objection has been received by the assessing authority on 26.04.2016 and acknowledgment card to this effect is available on file.

5.However, notwithstanding the same, the impugned order of assessment is passed on 11.07.2016 wherein, the officer has lost sight of the objections raised and the opportunities sought, and merely concludes that on the basis of pre-assessment proposals, no objection has been filed, which is patently erroneous. Thus, the impugned order is set aside as I note gross violation of principles of natural justice. The Assessing Authority will issue fresh notice to the petitioner to appear for an enquiry and complete the assessment, after supplying the documents sought for by the petitioner in line with Circular No.3/2019 dated 18.01.2019.

6.The Writ Petition is allowed in the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To
1.The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner
of Commercial Taxes,Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Commercial Tax Officer,
Thiruppathur Assessment Circle,
Commercial Taxes Office,
5/4, 56, Chinna Thoppu Street, Thiruppathur,
Sivagangai District - 630 211.

+1 CC to M/s.B.ROOBAN, Advocate (SR-73264[F] dated 04/07/2019)
+1 CC to M/s.SPL GP (SR-73465[F] dated 04/07/2019)

W.P(MD)No.14424 of 2016
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ps
MS/12.09.2019/2P.5C