BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **27.06.2019**
CORAM:
THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P.(MD)No.18101 of 2016, 5103 of 2012 and 12303 of 2010
and
W.M.P.(MD)No.13054 of 2016, 184 of 2017 and 10798 of 2018
and
M.P.(MD)No.1 of 2012

W.P.(MD)No.18101 of 2016:

Tvl.Gowtham Crackers,
Represented by its Proprietor, M.G.Pandiyarajan,
No.70, East Masi Street, Madurai. ...Petitioner

/Vs./

The Deputy Commercial Tax Officer,
Chitrakara Street Assessment Circle,
Madurai. ...Respondent

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in TIN.33784921782/2014-15 dated 12.8.2016, quash the same as illegal and contrary to the provisions of Section 3(4)(b) of the Tamil Nadu Value Added Tax Act, 2006 and further direct the respondent to re-do the assessment for the year 2014-15 by assessing the petitioner's first turnover of Rs.50 Lakhs under Section 3(4) of the Tamil Nadu Value Added Tax Act, 2006 and the balance turnover of Rs.67,949/- under Section 3(2) of the Tamil Nadu Value Added Tax Act, 2006 and permit the petitioner to avail Input Tax Credit on the purchases made from the date, and on the stock available with him, the purchases of which has been made within ninety days before the date, on which such turnover has reached Rs.50 Lakhs as per Section 3(4)(b) of the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner : Mr.A.Chandrasekaran
For Respondent : Mr.S.Angappan
Government Advocate

W.P.(MD)No.5103 of 2012:

D.A.Medicals,
Represented by its Managing Partner, D.A.Deivanayagam,
50, North Car Street, Thoothukudi. ...Petitioner

/Vs./

1.The Assistant Commissioner (CT)-I,
(FAC) Tuticorin.

2.The State of TamilNadu,
Represented by its Secretary,
Commercial Taxes and Registration,
B1 Department, Fort St. George,
Chennai - 600 009. ...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent herein in his TIN No.33665821426/2007-08 dated 28.12.2011 and quash the same and directing the first respondent herein to permit them to claim input tax credit as provided under Section 19(1) of the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner : Mr.D.Sakkaravarthi
For Respondents : Mrs.J.Padmavathy Devi
Special Government Pleader

W.P.(MD)No.12303 of 2010:

M/s.Rajam Stores,
Represented by its Proprietor, S.V.Arumugam,
31, Thiyagigal Road,
Devakottai. ...Petitioner

/Vs./

The Commercial Tax Officer,
Devakottai. ...Respondent

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 on the file of the respondent in TIN No.33945460044/2007-08 dated 5.8.2010 and quash the same as illegal, arbitrary.

For Petitioner : Mr.S.Karunakar
For Respondent : Mr.A.Thiyagarajan
Government Advocate

COMMON ORDER

A single order is passed disposing W.P.(MD)Nos.18101 of 2016, 5103 of 2012 and 12303 of 2010, since the issues that arise therein are common across petitioners.

2. Detailed submissions advanced by the learned counsel appearing for the petitioners as well as the respective Government Pleader have been heard.

3. The issue in question is whether Tamil Nadu Act 27 of 2011 is applicable only with effect from the date of its notification, ie., 01.04.2012 or even retrospectively.

4. All learned counsel concur on the position that the identical question as before me has been considered by a learned Single Judge of this Court in the case of *Tvl.Shanmugamari Timbers vs. Commercial Tax Officer* in *W.P.(MD)No.3744 of 2015, dated 20.12.2018* and held in favour of the assessee. Relying upon the judgment of the Constitutional Bench of the Supreme Court in the case of *Commissioner of Income Tax (Central) - I, New Delhi vs. Vatika Township Private Limited* (2015 1 SCC 1) and the discussion therein on the principles governing restrospectivity of provisions, the amendment in question has been held to be restrospective. Learned Government Pleader also fairly confirms that the decision dated 20.12.2018 has attained finality.

5. In the aforesaid circumstances, the orders impugned in the writ petitions are set aside and these Writ Petitions are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Deputy Commercial Tax Officer,
Thiruverumbur Assessment Circle,
Trichy.

2.The Commercial Tax Officer,
Devakottai.

3.The Deputy Commercial Tax Officer,
Chitrakara Street Assessment Circle,
Madurai.

4.The Assistant Commissioner (CT)-I,
(FAC) Tuticorin.

5.The Secretary,State of TamilNadu,
Commercial Taxes and Registration,
B1 Department, Fort St. George,
Chennai - 600 009.

+1 CC to M/s.A.CHANDRASEKARAN, Advocate (SR-72090[F] dated 28/06/2019)

+1 cc to Mr.N.Inbarajan , Advocate SR.No.71969

+1 cc to Mr.S.Karunakar , Advocate SR.No.71938

+1 cc to The Special Government Pleader Sr.No.72495

Common Order made in
W.P.(MD)No.18101 of 2016, 5103 of 2012 and 12303 of 2010
Dated:
27.06.2019

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