BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **11.07.2019**
CORAM:
THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
W.P.(MD)No.7070 of 2014
and
M.P.(MD)No.1 of 2014

M/s.Opal Energy Solution Private Ltd.,
3/212, Renganayagipuram,
Sengamangalam, Peravurani - 614 804. ... Petitioner

/Vs./

The Commercial Tax Officer,
Pattukkottai - I Assessment Circle,
Pattukkottai. ... 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 of the respondent in the impugned order in TIN/33984162453/2012-13 dated 28.03.2014 and quash the same as it is against the principles of natural justice.

For Petitioner : Mr.K.Vaitheeswaran
For Respondent : Mrs.J.Padmavathy Devi
Special Government Pleader

ORDER

The issue involved in this writ petition is covered by a Judgment of the Supreme Court in the case of *State of Maharashtra* vs. *Suresh Trading Company* [(1998) 109 STC 439 (SC)]. The petitioner had purchased goods from three dealers namely, M/s.Vinesh Trading, Chennai, M/s.Umiya Sales Agency, Chennai and M/s.Krish Corporation, Chennai.

2. Notices proposing re-assessment were issued in terms of Section 27 of the Tamil Nadu Value Added Tax Act, 2006, [in short 'Act']. The proposals contained therein was for reversal of Input Tax Credit under Section 19(16) of the Act on the ground that the purchase has been from dealers, whose registration had been cancelled.

3. The petitioner replied to the notice on 14.03.2014 pointing out that the sales were all genuine, the dealers from whom purchases were effected are registered dealers, the status of registration was 'active' as on the date of purchase and that the Departmental website also indicated that monthly returns had been filed by the aforesaid dealers. Invoices of purchase were also filed before the officer. Hence, the petitioner contended that the purchases/claim of ITC could not be negated on the basis of the alleged retrospective cancellation of the registration of the dealers.

4. The learned Special Government Pleader has today very fairly produced the details of registration, cancellation which indicate that the registration of the dealers have indeed been cancelled on 30.11.2012, 19.11.2014 and 18.12.2012 retrospectively.

5. The Supreme Court in the case of *Suresh Trading Company* [Supra] states as follows:

> *"5.In our view, the High Court was right. A purchasing dealer is entitled by law to rely upon the certificate of registration of the selling dealer and to act upon it. Whatever may be the effect of a retrospective cancellation upon the selling dealer, it can have no effect upon any person who has acted upon the strength of a registration certificate when the registration was current. The argument on behalf of the department that it was the duty of persons dealing with registered dealers to find out whether a stat of facts exists which would justify the cancellation of registration must be rejected. To accept it would be to notify the provisions of the statute which entitle person dealing with registered dealers to act upon the strength of registration certificates."*

6. In the light of the above, the impugned order of assessment is set aside. Accordingly, this writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

The Commercial Tax Officer,
Pattukkottai - I Assessment Circle,
Pattukkottai.

+1 CC to SPL GP SR-75052.
+1 CC to M/s.K.VAITHEESWARAN, Advocate SR-75302.

Order made in
<u>W.P.(MD)No.7070 of 2014</u>
Dated:
<u>11.07.2019</u>

CS(12.09.2019) 2P 4C