BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **30.07.2019**
CORAM:
THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P.(MD)No.2753 of 2016
and
W.M.P.(MD)No.2437 of 2016

Tvl.Guna Agency,
Represented by its Proprietor T.Muthukumaran,
S/o.ThiruGnanam,
No.458/5,6,Anna Salai,
East Gate, Thanjavur. ... Petitioner

/Vs./

The Deputy Commercial Tax Officer (Main),
Thanjavur-I Circle, Thanjavur. ... 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 herein in TIN:33243802311/2013-14 dated 14.12.2015 and quash the same as illegal, invalid and violative of the principles of natural justice.

For Petitioner : Mr.A.Chandrasekaran
For Respondent : Mrs.J.Padmavathy Devi
Special Government Pleader

ORDER

The challenge in the present Writ Petition is to order dated 14.12.2015 for the period 2013-14 passed in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006, [in short 'Act']. The petitioner contends that it is not liable to tax under the Act, since its turnover is less than the prescribed threshold, that is, Rs.10,00,000/-. Notice was issued by the respondent initially on 29.05.2015 alleging that the petitioner had failed to report purchases to the tune of Rs.1,81,939/- which he proposed to treat as purchase omission and consequently sales suppression. In the light of the particulars furnished by the petitioner, this proposal appears to have been dropped by the respondent.

2. A revised notice was thereafter issued on 24.08.2015 stating that upon a comparison of the purchase details avilable on the website of the Commercial Taxes Department and Annexure-I to the returns filed by the petitioner, purchases to the tune of Rs.1,23,960/- were not reflected and as such sales suppression was once again proposed. The petitioner, under cover of letter dated

30.11.2015, admitted the fact that purchase turnover to the extent of a sum of Rs.51,000/- (approx.) had inadvertently not been included in the returns. Supporting statement by the Chartered Accountant to this effect was also filed.

3. In the impugned order, the assessing authority makes reference to letter dated 30.11.2015 as well as the supporting documents. However, in conclusion, he merely confirms the revised proposal under notice dated 24.08.2015 in the light of the admission of the petitioner. According to him, such omission would not have come to light, but for the notices issued by him. This can hardly be the reason on the basis of which a proposal for assessment is liable to be confirmed.

4. The admission by the petitioner is to an extent of less than 50% of the proposal and the assessing authority ought to have considered the documents before him and arrived at a reasoned conclusion after hearing the petitioner and considering the evidences filed. This has not been done. The impugned order will thus stand set aside. The petitioner will appear before the respondent on **13.08.2019 [Tuesday] at 10.30 a.m.**, without further notice being issued in this regard and is permitted to produce evidence of quantum of purchase, specifically documents contemporaneous with the time of purchase. The respondent will pass an order of assessment *de novo*, on merits and in accordance with law, after taking into account the evidences filed by the petitioner and hearing it in person. This exercise shall be completed within a period of **four weeks form 13.08.2019.**

5. This Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar(CS)

To
The Deputy Commercial Tax Officer (Main),
Thanjavur-I Circle, Thanjavur.
+1 CC to M/s.SPL GP (SR-79253[F] dated 01/08/2019)
+1 CC to M/s.G.KARNAN, Advocate (SR-79164[F] dated 01/08/2019)

Order made in
W.P.(MD)No.2753 of 2016
Dated:
30.07.2019

AM/SAR/09.08.2019/ 2P 4C