BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2019

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.9849 of 2016
and W.M.P(MD) No.7778 of 2016

Tvl.Roopa Enterprises,
Rep. by its Proprietor G.Raghuraj Bhandari,
No.224, West Masi Street,
Madurai. .. Petitioner

Vs.

The Assistant Comissioner (CT),
Nethaji Road Circle,
Madurai - 20. ... Respondents

Prayer: Writ Petition is 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:33504980621/2009-2010 dated 09.05.2016 and quash the same as illegal, against the principles of natural justice and directly against the judgments rendered by this Court reported in (2012) 50 VST 179, (2013) 59 VST 256 and (2013) 60 VST 283.

For Petitioner :Mr.A.Chandrasekaran
For Respondents :Mr.A.Thiyagarajan
Government Advocate

O R D E R

The petitioner prays for a Certiorari quashing order dated 09.03.2016 passed by the respondent in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') for the period 2009-2010.

2. Heard Mr.A.Chandrasekaran, learned counsel for the petitioner and Mr.A.Thiyagarajan, learned Government Advocate appearing on behalf of the respondent.

3.The petitioner has received notice dated 16.06.2015 from the respondent proposing reversal of Input Tax Credit (ITC) on the purchases effected from Tvl.Sri Sales Corporation on the ground that the aforesaid dealer had not filed any monthly returns and also for the reason that the registration of the dealer thus has been cancelled with effect from 03.09.2009. Objections were called for from the petitioner.

4. In response, the petitioner filed a detailed objection dated 01.07.2015 requesting various details in respect of the cancellation of the registration and an opportunity to cross examine the dealer. The petitioner contended that purchase bill copies, ledger copies and the petitioners' bank statements were available to establish the genuineness of the transactions vis-a-vis the dealer in question.

5. Admittedly in this matter, no opportunity of personal hearing has been afforded, which, even as per the circulars and guidelines issued by the Principal Commissioner and Commissioner of Commercial Taxes Department, is mandatory.

6. It is at this juncture, useful to extract the conditions set out in respect of claim of Input Tax Credit under Rule 10(2) of the Tamil Nadu Value Added Tax Rules, 2007,(in short 'Rules') which read as follows:

> *10(2) Every registered dealer who claims input tax credit under sub-section (1) of Section 19 shall, produce the original tax invoice, in support of his claim of the input tax credit, containing the following details, namely : --*
> *(a) A consecutive serial number;*
> *(b) The date on which the invoice is issued;*
> *(c) The name, address and the Taxpayer identification number of the seller;*
> *(d) The name, address and the Taxpayer identification number of the buyer;*
> *(e) The description of the goods;*
> *(f) The quantity or volume of the goods;*
> *(g) The value of the goods;*
> *(h) The rate and amount of tax charged; and*
> *(i) The total value of the goods.*

7. In the present case, though the petitioner avers that primary data has been produced by it for consideration of the Officer, in counter, the respondent state that only part of the particulars have been produced and not all particulars necessary to establish compliance with Rule 10(2).

8. In the light of the above, I am of the considered view that this assessment should be re-done by the Assessing Officer in accordance with law specifically in line with the prescription in Rule 10(2) as extracted above. The impugned assessment is thus set aside. The assessee will appear before the Authority on Tuesday ie 13.08.2019 at 10.30 a.m without expecting any further notice of

hearing in this regard. Notice issued by the Assessing Authority dated 16.06.2015 shall be treated as show cause notice. The details sought for by the assessee in reply dated 01.07.2015 shall be supplied by the respondent and the petitioner is permitted to file an additional submission in response to the same. Thereafter, an order of assessment *de novo* shall be passed by the respondent within four (4) weeks from date of personal hearing i.e on or before 16.09.2019.

9. This writ petition is allowed in the abovesaid terms. No costs. Consequently, connected W.M.P(MD)No.7778 of 2016 is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar(CS)

To,
The Assistant Comissioner (CT),
Nethaji Road Circle,
Madurai - 20.

+1 CC to M/s.A.CHANDRASEKARAN, Advocate (SR-78591[F] dated 30/07/2019)

+1 CC to M/s.SPL GP (SR-78881[F] dated 31/07/2019)

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AM/SAR/09.08.2019/ 3P 4C