IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 25240 of 2012
and
M.P. No. 1 of 2012

The Pearl Stone Pvt Ltd.,
5, Ranganathan Avenue Street,
Kellys, Chennai - 10,
Rep. by its Director,
Mrs. Nisha Agarwal ...Petitioner

-vs-

The Assistant Commissioner (CT), (FAC)
Ayanavaram Assessment Circle,
O/o. Assistant Commissioner (CT),
Kuralagam Buildings Annexe, 3rd Floor,
Chennai - 108. ...Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the Respondent in TIN. No. 33961002980/12-13 dated 27.08.2012, quash the same.

For Petitioner : Mr. S.Raveekumar
for M/s. Maha Associates
For Respondent : Mrs. G.Dhana Madhri
Government Advocate (Taxes)

O R D E R
(through video conference)

Heard Mr. S.Raveekumar, Learned Counsel for the Petitioner and Mrs. G.Dhana Madhri, Learned Government Advocate (Taxes) and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Notice No. TIN: 33961002980/2012-13 dated 27.08.2012 issued by the Respondent to the Petitioner stating as follows:-

> "Tvl. The Pearl Stone Pvt Ltd., dealers in marble and granites at 5, Ranganathan Avenue, Chennai - 600 010 are filing returns in Form-I under TNVAT Act, 2006.

On verification of the monthly returns filed for the months from April to March 2013 it is ascertained that the dealers have claimed input tax from the dealers whose registration certificates were cancelled already and the registration numbers are inactive as specified in the list attached.

The Registration certificates of the dealers from whom Tvl. Pearl Stone Pvt Ltd., were purchased already cancelled by the respective registering authorities that the addresses mentioned in which the dealers have registered are fictitious addresses which are not traceable. Hence the purchases effected by Tvl. Pearl Stone Pvt Ltd., itself are found to be fraud, Connivance, Collution, Fraudulently, Forgery and Fake Sham Transactions.

Hence it is proposed to reverse the ITC as per provision under Section 19 of the TNVAT Act, 2006.

Year	Total purchases made from the fictitious addresses	ITC availed on these purchases
2012-2013	5848480	848031

It is also proposed to levy penalty under Section 27 of the Act.

Objection if any to the above proposals may be filed within 15 days from the day of receipt of this notice, failing which order will be passed as proposed in the notice without any further notice."

3. The grievance sought to be ventilated by the Petitioner is that though it is claimed that the registration certificates of the dealers from whom the Petitioner had purchased goods had already been cancelled by the respective Registering Authorities, the copies of such cancellation order has not been furnished, so as to enable the Petitioner to verify as to whether the claim of the Respondent that the purchase transaction was invalid is factual correct.

4. In that view of the matter, it is not possible to sustain the impugned notice and the same is quashed. This would not, however, preclude the Respondent from issuing fresh notice for the same period with specific details including furnishing of the copies of cancellation of registration of the dealers from whom the Petitioner is said to have purchased the goods, in respect of which input tax credit had been wrongly claimed by

the Petitioner, so as to reverse the claim or levy penalty and take further proceedings in the manner recognized by law.

In the result, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kv/dm

To

The Assistant Commissioner (CT), (FAC)
Ayanavaram Assessment Circle,
O/o. Assistant Commissioner (CT),
Kuralagam Buildings Annexe, 3rd Floor,
Chennai - 108.

+1cc to Mr.S.Raveekumar, Advocate, S.R.No.34020
+1cc to Special Government Pleader, S.R.No.34135

W.P. No. 25240 of 2012

KKV/04/11/2020