IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2020

CORAM

THE HON'BLE MR. JUSTICE C. SARAVANAN

W.P. Nos. 11626 & 11627 of 2014
and
M.P. No. 1 of 2014

Tvl.Midas Safety Private Ltd.,
represented by its Finance Manager Lijo Thomas,
Plot No.B-45, II Cross Street,
4th Main Road,
SIPCOT Industrial Park,
Irunkattukottai,
Kancheepuram District,
Pin 602 105. ... Petitioner in both writ petitions

-vs-

1.The Assistant Commissioner ,
Sriprembuthur Assessment Circle,
Varatharajapuram
Pin 602 103.

2.The Checkpost Officer,
Commercial Taxes,
Ranipet (out),
Ranipet. .. Respondents in both writ petitions

Prayer in W.P. No. 11626 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the 1st respondent in his assessment proceedings in TIN 33141663419/2011-2012 dated 26.07.2013 and quash it as illegal, unlawful and unconstitutional.

Prayer in W.P. No. 11627 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the 1st respondent herein in TIN 33141063419/2011-2012 dated 10.12.2013 and quash it as illegal, unlawful and unconstitutional.

For Petitioner in
both writ petitions : Mr. M. Desingu

For Respondents in
both writ petitions : Mr. A. N. R. Jayaprathap
Standing Counsel

O R D E R

The petitioner has filed two writ petitions challenging the assessment order dated 26.07.2013, which is a common assessment order for the assessment under the TN VAT Act, 2006 and CST Act, 1956.

2. Impugned order came to be passed in the light of interception of the goods transacted to the petitioner's branch office for which the branch office had purportedly submitted Form-F and had maintained the relevant register in Form-38. After the interception, a surprise visit was conducted by the enforcement wing at the petitioner premises on 12.10.2012, which culminated in two notices dated 19.04.2013, proposing to demand tax under the provision of the TN VAT Act, 2006 and CST Act, 1956 in respect of the turnover. According to the petitioner, the disputed transaction which was intercepted on 12.05.2011 at Ranipet was for a sum of Rs.7,09,173.60/- whereas, in the surprise inspection report, the amount has been shown as Rs.7,09,17,900/- on which tax has been demanded.

3. The petitioner had therefore filed an application under Section 84 of the TN VAT Act, 2006 on 02.12.2013. By an intimation dated 12.12.2013, the respondent has returned the same stating that the petitioner cannot approbate or disapprobate and rejected the same with the following observations:

> "In the case of yousuff Radio vs. Board of Venue (CT) Chepauk, Madras reported in 43 STC 525 (Madras) it has been held that after the voluntary sworn statement, the deponent cannot approbate or disapprobation his own statement. Hence, revision of assessment made on 26.07.2013 about the levy of tax is sustained."

4. The petitioner has demonstrated there is a possible error apparent on the face of record. Accordingly, I direct the 1st respondent to pass a fresh order one way or other under Section 84 of the Income Tax Act in respect of the assessment orders dated 26.07.2013, within a period of 3 months from the date of receipt of a copy of this order after hearing the writ petitioner. Till then, recovery proceedings, shall stand stayed and will be subject to the out come of such proceedings. The respondents shall pass appropriate orders.

5. In view of the same, both the writ petitions stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

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To

1.The Assistant Commissioner ,
Sriprembuthur Assessment Circle,
Varatharajapuram
Pin 602 103.

2.The Checkpost Officer,
Commercial Taxes,
Ranipet (out),
Ranipet.

+2cc to Mr.M. Desingu, Advocate SR.No.8754, 8755

+1cc to Special Government Pleader (Taxes) SR.No.9611

W.P. Nos. 11626 & 11627 of 2014

GMY(09/07/2020)