IN HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2020

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.8440 & 8441 of 2017
and
W.M.P.Nos.9238 & 9239 of 2017

M/s.Popular Electricals,
Represented by its Partner,
No.12, S.M.Plaza,
New No.93, Old No.45,
Armenian Street,
Chennai - 600 001. ...Petitioner in W.P.No.8440/2017

M/s.Choice Electricals,
Represented by its Proprietrix,
No.12, S.M.Plaza,
New No.93, Old No.45,
Armenian Street,
Chennai - 600 001. ...Petitioner in W.P.No.8441/2017

Vs.

The Assistant Commissioner (CT),
Esplanade Assessment Circle,
No.118, Anappa Naicken,
Chennai 600 001. ...Respondents in both W.Ps.

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the impugned proceedings of the respondent in TIN: 33890081955/2013-2014 and TIN: 33880080942/2013-2014 dated 20.12.2016 respectively and quash the same as the impugned orders have been passed totally contrary to Section 19(1) of the TNVAT Act read with Rule 10(2) of the TNVAT Rules, contrary to the law laid down by this Court in the decisions in the case of M/s.Althaf Shoes (P) Ltd reported in 50 VST 179, in the case of M/s.Jinsasan Distributors reported in 59 VST 256 and in the case of M/s.Sri Vinayaga Agencies reported in 60 VST 283 and also contrary to the principles of natural justice provisions of the TNVAT Act.

For Petitioner : Mr.P.Rajkumar in both W.Ps.

For Respondent : Mr.G.Dhanamadhri Government Advocate in both W.Ps.

COMMON ORDER

Both the petitioners have challenged the impugned orders dated 20.12.2016 bearing reference TIN:33890081955/2013-2014 and TIN:33880080942/2013-2014 passed against them by the respondent on the ground that respondent has denied input tax credit on the ground that the dealers who sold the goods to the respective petitioners had not paid the tax.

2. In the respective impugned orders, the respondent has denied input tax credit on the ground that one of the registered dealer was not liable to pay tax and required to file return in Form I-1 on or before the 20^{th} day of May of the succeeding year showing the actual turnover in respect of all goods dealt by him had wrongly filed Annual Return in Form I-1 with an intention to evade payment of tad and had passed on input tax credit to the respective petitioners.

3. It has been further concluded that there was no proof of movement of goods. The respective petitioners have raised several legal defences.

4. The respondent has not discussed all of the legal defence raised by the respective petitioners and the applicability of the cases cited by the respective petitioners in the impugned orders. Therefore it is evident that in the impugned orders are not properly reasoned.

5. I am therefore inclined to quash the impugned respective orders and remit the cases back to the respondent to pass fresh orders in accordance with law within a period of three months from date of receipt of a copy of this order.

6. The impugned orders which stand quashed by this order shall however be treated as Show Cause Notices. The petitioners may, if desired file there for their objections within a period of thirty days from the date of receipt of a copy of this order. The respondent shall consider the same before passing fresh orders within such period.

7. Writ Petitions stand disposed with the above observations. No cost. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

jen

To

The Assistant Commissioner (CT),
Esplanade Assessment Circle,
No.118, Anappa Naicken,
Chennai 600 001.

+1cc to Mr.P.Rajkumar, Advocate, S.R.No. 9832
+1cc to the Special Government Pleader(Taxes), S.R.No. 10524

W.P.Nos.8440 & 8441 of 2017 and
W.M.P.Nos.9238 & 9239 of 2017

MR(CO)
GN(18/03/2020)