BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.08.2020
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)Nos.1436 & 1439 of 2020
and
W.M.P(MD).Nos. 1148 & 1149 of 2020

Krishnamani Traders
Represented by its Proprietor
T.C.Ashok Kumar ... Petitioner in both petitions

Vs.

1.The State of Tamil Nadu
Represented by its Secretary to Government
Department of Commercial Taxes & Registration
Fort.St.George
Chennai 600 009

2.The Commissioner of Commercial Taxes
Ezhilagam, Chepauk
Chennai 600 005

3.The Deputy Commissioner (C.T)
C.T.Buildings Madurai Road
Viruthunagar

4.The State Tax Officer
C.T.Buildings Madurai Road
Virudhunagar ... Respondents in both petitions

Common Prayer: These writ petitions have been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the fourth respondent in TN.33035761972/2014-15 and TN.33035761972/2015-16 dated 04.12.2019 (received by the petitioner on 06.12.2019) and quash the same and to direct the fourth respondent to follow the circular of the second respondent circular No.3 of 2019 dated 18.01.2019 and to consider the application under Section 84 of the TN VAT Act filed by the petitioner dated 24.12.2019.

(In both petitions)

For Petitioner : Mr.K.Vadivelu

For Respondents : Mrs.J.Padmavathy Devi
Special Government Pleader

COMMON ORDER

Heard the learned counsel on either side.

2. The assessee in both writ petitions is one and the same. However, the assessment years are different. The petitioner submitted that their total turn over is less than Rs.50/- lakhs per annum. They had filed returns on that basis. But then, the Assessing Authority came to know from the details from the Web Portal that the petitioner had a turn over beyond the ceiling limit of Rs.50/- lakhs. Therefore, the Assessing Officer had issued a notice to the petitioner. The petitioner, however, denied the transactions attributed to them. Not satisfied with the explanation given by the petitioner, the impugned order dated 04.12.2019 came to be passed.

3.The petitioner had filed a petition under Section 84 of the TN VAT Act. They had also subsequently filed the writ petition. It is seen that without cross verifying with the other end dealer, the impugned orders have been passed. I am of the view that this is not correct. The Assessing Officer ought to have conducted cross verification with the other end dealer and only thereafter concluded the process. Since the procedure has not been adopted correctly, the orders impugned in the writ petitions are quashed and these writ petitions are allowed. The matters are remitted to the file of the Assessing Officer to pass fresh orders on merits and in accordance with law.

4.In the above terms, these writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Secretary to Government,
State of Tamil Nadu,
Department of Commercial Taxes & Registration
Fort.St.George ,
Chennai 600 009.

2.The Commissioner of Commercial Taxes,
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Chennai 600 005.

3.The Deputy Commissioner (C.T),
C.T.Buildings Madurai Road,
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