IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 29.01.2021

CORAM:

THE HON'BLE MR.JUSTICE C.SARAVANAN
W.P.Nos.20722 & 20723 of 2021
and
M.P.Nos.1 & 1 of 2011

M/s. The White Light Group
Represented by its Proprietor,
No.58, Ground Floor, Cisons Complex,
No.2, Montieth Road,
Egmore, Chennai - 600 008. ... Petitioner in both W.Ps

Vs

1. The State of Tamil Nadu,
   Represented by its Secretary,
   Commercial Taxes Department,
   Fort St.George, Chennai.

2. The Assistant Commissioner(CT),
   Egmore I Asst Circle,
   Spurtank Road, Chetpet,
   Chennai - 600 031. ... Respondents in both W.Ps

Prayer in W.P.No.20722 of 2011: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned proceedings of the second respondent in TIN.No.33020442449/2010-2011 dated 3.8.2011 and quash the same as the same has been issued without authority of law and also against the provisions of the Tamil Nadu Value Added Tax Act, 2006.

Prayer in W.P.No.20723 of 2011: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned proceedings of the second respondent in TIN.No.33020442449/2010-2011 dated 8.8.2011 and quash the same as the same has been issued without authority of law and also against the provisions of the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner (in both W.Ps) : Ms.Arunadevi for Mr.P.Rajkumar
For Respondents (in both W.Ps) : Mr.R.Swarnavel Government Advocate

COMMON ORDER

By this common order, both these writ petitions are being disposed of.

2. The petitioner has challenged the impugned notices dated 03.08.2011 and 08.08.2011 issued by the 2nd respondent which has called upon the petitioner to pay the Input Tax Credit amount claimed by the petitioner on the strength of the invoices issued by M/s.Varadhaman Enterprises and M/s.Maruthi Traders link.

3. On the previous occasion, when the case was heard on 11.01.2021, the learned Government Advocate for the respondents was called upon to verify and report as to when the cancellations of the registration of the two dealers were made.

4. Mr.R.Swarnavel, learned Government Advocate on behalf of the respondent confirms that the Registration Certificate of the respective dealers, named in Paragraph 2 above, who supplied the goods to the petitioner were cancelled on 11.07.2011 with retrospective effect from 13.07.2009 and 28.05.2009. He also confirms that the disputed Input Tax Credit was availed by the petitioner between 2010-Jan 2011 prior to the cancellation. Thus, Input Tax Credit was availed before the registrations were canceled on 11.07.2011.

5. That being the case, the issue squarely is covered in favour of the petitioner in the following two cases:-

> (i) Jinsasan Distributors Vs Commercial Tax Officer (CT), Chintaripet Assessment Circle, Chennai, (2013) 59 VST 256 (Mad) : 2012 SCC Online Mad 4633.
>
> (ii) Assistant Commissioner (CT), Broadway Assessment Circle, Chennai Vs Bhairav Trading Company, (2016) 96 VST 315 (Mad).

6. In the Jinsasan Distributors Case (referred to supra), the Court held as follows:-

> "12. Insofar as the cancellation of the registration certificates of the selling dealers is concerned, it is for those selling dealers to canvas the plea as to when it will take effect either on the date of the order or with retrospective effect. Insofar as the petitioners are concerned, they have purchased the taxable goods from registered dealers who had valid registration certificates; paid the tax payable thereon; availed input tax credit; and the assessing officers have passed orders granting

such benefit. Therefore, the assessment orders granting input tax credit were validly passed. There was no cancellation of the registration certificates of the selling dealers at that point of time. The petitioners/assessees have paid input tax based on the invoices issued by registered selling dealers and availed input tax credit. The retrospective cancellation of the registration certificates issued to the selling dealers cannot affect the right of the petitioners/assessees, who have paid the tax on the basis of the invoices and thereafter claimed the benefit under Section 19 of the TNVAT Act, 2006. They have utilized the goods either for own use or for further sale. At the time when the sale was made, the selling dealers had valid registration certificates and the subsequent cancellation cannot nullify the benefit that the petitioners/assessees availed based on valid documents."

7. In view of the same, both these writ petitions stand allowed with consequential relief to the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Government of Tamil Nadu,
Commercial Taxes Department,
Fort St.George, Chennai.

2. The Assistant Commissioner(CT),
Egmore I Asst Circle,
Spurtank Road, Chetpet,
Chennai - 600 031.

+1 cc to Spl Government Pleader Sr.No. 4955

W.P.Nos.20722 & 20723 of 2011
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M.P.Nos.1 & 1 of 2011

A.SK(24.02.2021)