BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.4760 of 2021
and
W.M.P.(MD)No.3874 of 2021

M/s.M.S.Marketing,
Represented by its Proprietor,
M.Selvi. ... Petitioner

Vs.

The State Tax Officer,
West Veli Street Assessment Circle,
Commercial Taxes Building,
Madurai-20. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in Na.Ka.No.499/2019/A3 dated 13.02.2020 impugned demand notice for the assessment year 2013-14 to 2016-17 in TIN No 33725024829 issued by the respondent and quash the same is wholly without jurisdiction, being contrary to the judgment of this Court reported in the case of the Assistant Commissioner (CT), Koyambedu Assessment Circle, Chennai vs Infiniti Wholesale Limited reported in (2017) 99 VST 430 and direct the respondent to conduct an enquiry with other end dealers as contemplated under Section 27 of the TNVAT Act 2006 and pass an assessment order afresh in the light of the guidelines enunciated in the batch of writ petitions in the case of M/s.JKM Solutions Private Limited reported in 2017 (99) VST 343 (Mad) including the opportunity of personal hearing to the petitioner.

For Petitioner : Mr.Kasinathadurai
For Respondent : Mrs.J.Padmavathi Devi,
Special Government Pleader.

ORDER

Heard the learned counsel for the writ petitioner and the learned Government Advocate for the respondent. With their consent, the writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner is an assessee registered with the respondent. The assessment years are 2013-2014 to 2016-2017. By the impugned notice dated 13.02.2020, the petitioner has been called upon to pay tax demanded in respect of those years. Questioning the same, this writ petition has been filed.

3.In the writ petition what is challenged is the impugned notice calling upon the petitioner to make available the interim order of stay obtained by the petitioner in respect of those demands. The petitioner has been advised to pay amounts in question, if he has not obtained any interim order of stay. Against such a communication, no writ petition can lie. The petitioner claims that in respect of the assessment year 2013-14, he had successfully challenged the same in a writ petition. If that be so, the petitioner can very well produce a copy of the same for consideration of the respondent. If the demand in respect of said assessment year has been set aside by this Court, certainly the respondent cannot enforce with the same. The petitioner accepts that while he has filed a statutory appeal in respect of the assessment year 2013-14, he has not been able to obtain any interim stay till then. He however claims that he has not received copies of the assessment years pertaining to the remaining two years.

4.Taking note of the said submission, the respondent is directed to serve copies of the assessment orders in the respect of the assessment years 2015-2016 and 2016-2017. I make it clear that issue of limitation is not gone into in this proceeding. This is because, it is quite possible that the petitioner might have received the same. It is equally possible that the petitioner was not in receipt of the assessment orders. Therefore, the issue of limitation is left open.

5.The writ petition is disposed of accordingly. The respondent shall furnish the certified copies of the assessment orders in respect of the assessment years 2015-16 and 2016-17 within a period of two weeks from the date of receipt of a copy of this order. It is expected that the respondent will not precipitate the matters for a period of four weeks. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2021

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:

The State Tax Officer,
West Veli Street Assessment Circle,
Commercial Taxes Building,
Madurai-20.

+1 CC to M/s.G.KASINATHA DURAI, Advocate (SR-9639[F] dated 09/03/2021)

+1 CC to M/s.SPL GP (SR-10160[F] dated 10/03/2021)

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sgs(CO)
TR(10.03.2021) 3P 4C