BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.03.2021
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)Nos.3955 & 3957 of 2020
and
WMP(MD)Nos.3349 & 3356 of 2020

M/s.Imperial Glass Traders,
Rep.by its Proprietrix S.Parimala
Sahayaraj ... Petitioner in both cases

Vs.

The State Tax Officer,
Commercial Tax Building,
Palayamkottai, Tirunelveli. ... Respondent in both cases

Prayer in WP(MD). 3955/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records in TIN 33305561664/2009-10 dated 23-04-2018 and quash the same as arbitrary, illegal and in violation of the principles of natural justice, without jurisdiction and against the proviso section 3(4)(a) of the TNVAT Act 2006 and barred by limitation as prescribed under section 27(2) of the Tamil Nadu Value added Tax 2006.

Prayer in WP(MD). 3957/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records in TIN 33305561664/2014-15 dated 23-04-2018 issued by the respondent and quash the same as arbitrary, illegal and against the principles of natural justice and direct the respondent to pass assessment order afresh including the opportunity of being heard

For Petitioner in both cases	:	Mr.N.Sudalai Muthu for Mr.S.Karunakar
For Respondent in both cases	:	Mrs.J.Padmavathi Devi, Special Government Pleader

COMMON ORDER

Heard the learned counsel on either side.

2.The petitioner questions the impugned orders of assessment in respect of the assessment years 2009-10 and 2014-15. The petitioner's concluded assessments were re-opened under Section 27 of the Tamil Nadu Value Added Tax Act, 2006 following the inspection of the petitioner's place of business by the enforcement wing officials on 12.08.2014.

3.The stand of the petitioner is two fold. Though the petitioner has not filed the reply in response to the pre-revision notices, still, the respondent is obliged to give personal hearing which was not given in the instant cases. The petitioner had opted to pay tax at the compounded rate under Section 3(4) of the Act. The case of the respondent is that the ceiling limit of Rs.50.00 lacs was breached during the relevant years. While the petitioner would deny the same, even, if one goes by the computation of the respondent, still, it is only the excess turn over that could have been taxed at the usual rate of tax. In the instant cases, the entire turn over has been taxed at the usual tax rate. This is clearly incorrect.

4.I sustain the contention of the petitioner's counsel. On these twin grounds, the impugned orders are quashed and the matters are remitted to the respondent to pass orders afresh and in accordance with law within a period of four weeks from the date of receipt of copy of this order. All the contentions of the petitioner are left open. The petitioner's counsel states that 25% of the tax dues was paid at the time of admission. It is made clear that the question of refund of the said amount will not arise immediately. It will be based on the outcome of the orders to be passed post remand.

5.The writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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,

Commercial Tax Building,

Palayamkottai, Tirunelveli.

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-12920[F] dated 23/03/2021)

W.P.(MD)Nos.3955 & 3957 of 2020and
WMP(MD)Nos.3349 & 3356 of 2020
22.03.2021

KUN(CO)
KP(29.04.2021) 2P 3C