BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10784 of 2019
and
W.M.P.(MD)No.8231 of 2019

M/s.Esskay Enterprises,
Represented by its Authorised Signatory,
S.Nafeez Khader Ibrahim ... Petitioner

Vs.

The State Tax Officer,
Thiruverumbur Assessment Circle,
Multi-stored Building,
Kajamalai, Trichy - 620 020. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order dated 28.02.2018 in proceedings TIN No. 33073560244/ (2009-10 & 2011-12), issued by the respondent and quash the same.

For Petitioner : Mr.G.Derrick Sam
For Mr.Hari Radhakrishnan

For Respondent : Mr.G.Arjunan,
Government Advocate.

ORDER

Heard the learned counsel on either side.

2.The petitioner is a dealer registered with the respondent. The petitioner is a running petroleum retail outlet. The case on hand pertains to the assessment years 2009-2010 and 2011-12. The Enforcement Wing Officials inspected the petitioner's premises on 30.05.2017 and 31.05.2017. Based on the same, the pre-revision notice was noticed and after hearing the petitioner and after considering his objections, the impugned order came to be passed.

The amount involved in this writ petition is very small ie., Rs.558/-. The input tax credit availed by the petitioner had been revised by the impugned order. The stand of the respondent is that the petitioner had effected purchases from one M/s.Shanmugha Traders and one M/s.Raj Traders and they are registration certificate cancelled dealers. If the registration certificates of the said vendors had been cancelled prior to the purchases made by the petitioner, then, the petitioner could not have availed input tax credit. If the registration certificates were cancelled subsequently with retrospective effect, then petitioner cannot be affected by the said move. In the impugned order, the details are not clear. In the counter also, the respondent has not specifically stated that the petitioner purchased goods from a registration cancelled dealer.

3.Since the facts are not clear, I hold that the impugned order suffers from the vice of vagueness. On this ground, it is quashed. The writ petition is allowed. The matter is remitted to the file of the respondent to pass orders afresh in accordance with law in the light of legal position already clarified. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// 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,
Thiruverumbur Assessment Circle,
Multi-stored Building,
Kajamalai, Trichy - 620 020.

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