BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.02.2021
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.11158 of 2019 and
W.M.P.(MD)No.8527 of 2019

Tvl. Prime Industry,
Rep. by its Partner, P.Srinivasan,
S/o.R.Padmanaban,
No.13 & 14, SIDCO Industrial Estate,
Salem Byepass Road, Karur - 639 006. ... Petitioner

Vs.

1. The Commissioner of Commercial Taxes,
O/. The Principal and Special Commissioner of Commercial Taxes, Ezhilagam, Chepauk,
Chennai - 600 005.

2. The Commercial Tax Officer,
Karur(East) Assessment Circle,
Commercial Tax Building,
North Pradakshnam Road,
Karur - 639 001. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned proceedings of the second respondent in TIN.33913764743/2013-14 dated 18.03.2019 and quash the same.

For Petitioner : Mr.B.Rooban

For Respondents : Mr.S.Dhayalan,
Government Advocate.

O R D E R

Heard the learned counsel on either side.

2. The subject matter pertains to the assessment year 2013-2014. The second respondent issued pre-revision notice dated 09.12.2016. Certain defects have been pointed out. Defect No.5 reads that on verification of purchase as per Annexure-I of the petitioner and Annexure-II of the seller, certain differences were revealed to the tune of Rs.2,17,39,038/-. The petitioner gave his reply dated 28.12.2016. The petitioner had specifically contended that on reviewing their record, they found that there is no

omission of purchases in their books of accounts. However, in the impugned order, the proposal set out in the show cause notice was confirmed. Challenging the same, this writ petition has been filed.

3. Though the case on hand involves more than one defect, the manner in which the defect No.5 was dealt with by the second respondent indicates that it is not in compliance of the procedure laid down in JKM Graphics Solutions P. Ltd., V. C.T.O.(Mad) reported in (2017) 99 VST 343(Mad). The second respondent had not conduced any enquiry with the other end dealer.

4. Therefore, on this sole ground, the order impugned in this writ petition warrants interference. The order impugned in this writ petition is quashed. The matter is remitted to the file of the second respondent to pass orders afresh in accordance with law, after following the procedure laid down in JKM Graphics Solutions P. Ltd., V. C.T.O.(Mad) reported in (2017) 99 VST 343 (Mad).

5. This writ petition stands allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

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 Commissioner of Commercial Taxes,
   O/. The Principal and Special Commissioner of
   Commercial Taxes, Ezhilagam, Chepauk,
   Chennai – 600 005.

2. The Commercial Tax Officer,
   Karur(East) Assessment Circle,
   Commercial Tax Building,
   North Pradakshnam Road,
   Karur - 639 001.

+1 CC to Mr.B.ROOBAN, Advocate (SR-6052[F] dated 19/02/2021)

+1 CC to SPL GP (SR-6171[F] dated 19/02/2021)

W.P.(MD)No.11158 of 2019
18.02.2021

KM (26.02.2021) 3P 5C