BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.13501 of 2019
and
W.M.P.(MD)Nos.10029 & 10030 of 2019

P.Muthupandi ... Petitioner

-Vs-

1.The Assistant Commissioner (CT),
Thirumangalam Assistant Circle,
Thirumangalam,
Madurai.

2.The Branch Manager,
Indian Bank,
Thirumangalam,
Madurai. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 12.04.2017 in TIN:33715042634/2013-14 and TIN:33715042634/2014-15 and consequential impugned order dated 29.03.2019 in Roc.No.1041/A3/2018 passed by the first respondent and quash the same as illegal and consequently, direct the first respondent to follow the procedure under TNVAT Act.

For Petitioner : Mr.C.Mayil Vahana Rajendran
For R1 : Mrs.J.Padmavathi Devi
Special Government Pleader

For R2 : Mr.Pala Ramasamy

ORDER

Heard the learned counsel on either side.

2.The petitioner had worked as contractor for southern railways during the assessment years 2013-14 and 2014-15. The petitioner ought to have filed his returns with the first respondent. The petitioner failed to do so. Therefore, after issuing the notice on 14.07.2016, the impugned orders came to be passed on 12.04.2017 levying tax and penalty on the petitioner. They are under challenge in the writ petition.

3.When the matter was taken up for final disposal, the petitioner's counsel would point out that the railway authorities had deducted tax at source and had also issued certificates to that effect. The certificates issued by the Senior Divisional Engineer, Southern Railway, Madurai, indicating deduction of a sum of Rs.52,210/- and 67,583/- are enclosed in the typed set of papers. Therefore, this Court requested the assessing officer to find out if really the amount deducted at source had been remitted to the first respondent by the railway authorities. I am happy to record that Thiru.Sivakumar, the Assistant Commissioner, Thirumangalam Assistant Circle, went beyond the call of duty. Pursuant to the request of the Court, he verified that the amounts were in fact deducted and also subsequently remitted. He however would point out that there are still some discrepancies as regards the total sales turnover.

4.In as much as TDS deducted by the railway authorities has not been taken into account in the impugned orders, I am constrained to quash the same. The impugned orders are quashed. The Writ Petition is allowed. The matter is remitted to the file of the first respondent to pass orders afresh in accordance with law. The first respondent will take note of the TDS certificates issued by the railway authorities and based on the same, issue pre revision notice to the assessee. The assessee will respond promptly and take part in the personal hearing and thereafter, the first respondent shall pass orders afresh in accordance with law. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Rmi

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 Assistant Commissioner (CT),
Thirumangalam Assistant Circle,
Thirumangalam,
Madurai.

2.The Branch Manager,
Indian Bank,
Thirumangalam,
Madurai.

+1 CC to M/s.C.MAYIL VAHANA RAJENDRAN, Advocate (SR-14218[F] dated 29/03/2021)

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