



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)Nos.2374 & 2375 of 2019 and

W.M.P. (MD)Nos.1848 to 1850 of 2019

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M/s.Sree Meenakshi Agencies,
Rep. by its Proprietrix T.Meenakshi,
13A/44A, Jawahar Nagar 2nd Street,
Thirumangalam,
Madurai.

... Petitioner
in both petitions

Vs.

The Assistant Commissioner(CT),
Thirumangalam,
Madurai.

... Respondent
in both petitions

Prayer in W.P. (MD)No.2374 of 2019: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in TIN 33695042839/2012-13 dated 29.01.2015 issued by the respondent and quash the same as arbitrary, illegal and against the principles of natural justice and 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 case of M/s.JKM Solutions Private Limited reported in 2017 (99) VST 343(Mad) including the opportunity of personal hearing.

Prayer in W.P. (MD)No.2375 of 2019: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in TIN 33695042839/2013-14 dated 29.01.2015 issued by the respondent and quash the same as arbitrary, illegal and against the principles of natural justice and 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 case of M/s.JKM Solutions Private Limited reported in 2017 (99) VST 343(Mad) including the opportunity of personal hearing.

(in both W.Ps.)

For Petitioner : Mr.S.Karunakar

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



C O M M O N O R D E R

Heard the learned counsel on either side.

2. The petitioner is a dealer registered with the respondent. The cases on hand pertain to the assessment years 2012-13 and 2013-14. The petitioner's assessment was finalised under Section 22(2) of the Tamil Nadu Value Added Tax Act, 2006. Later, based on the details culled out from the website maintained by the department, action was initiated under Section 27 of the Tamil Nadu Value Added Tax Act, 2006. The petitioner was given pre-revision notice and after considering the petitioner's reply, the impugned orders came to be filed. They are assailed in these writ petitions.

3. Though the respondent has filed a detailed counter affidavit and the learned Government Advocate wants me to sustain the impugned orders, I am of the view that the orders impugned in these writ petitions are liable to be quashed for the simple reason that the procedure laid down in JKM Graphics Solutions P. Ltd., case was not followed.

4. The case against the petitioner rests primarily on mismatch. In that event, enquiry ought to have been conducted by the respondent with the other end dealers. In as much as such procedure was not followed, the impugned orders have to go. The orders impugned in these writ petitions are quashed. The writ petitions are allowed. The matter is remitted to the file of the respondent to pass orders afresh in accordance with law, after following the procedure laid down in M/s.JKM Graphics Solutions P. Ltd., case. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// 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.

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To:

The Assistant Commissioner (CT),
Thirumangalam,
Madurai.

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+1 CC to MR.S.KARUNAKAR, Advocate (SR-6058[F] dated 19/02/2021)

+1 CC to SPL GP (SR-6174[F] dated 19/02/2021)

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