



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2021

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 462 of 2019 and

W.M.P. (MD) No. 410 of 2019

WEB COPY

Tvl. Shree Shivaranjani Distributors,
Rep. by Partner R. Sundar,
132, North Car Street,
Sivakasi, Virudhunagar District.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of Commercial Taxes,
Fort St. George, Beach Road,
Chennai - 600 009.
2. The Commissioner of Commercial Taxes,
2nd Floor, Elilagam, Chepauk,
Chennai - 600 005.
3. The Commercial Tax Officer
Enforcement Wing Group II,
C.T. Buildings, Satchiapuram,
Sivakasi,
Virudhunagar District.
4. The Commercial Tax Officer-1,
Sivakasi, Virudhunagar District.
5. The Assistant Commissioner (C.T)-III,
C.T. Building, Beach Road,
Tuticorin.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the fourth respondent in his proceedings in TIN 33075961479/11-12 dated 13.12.2018 (received by the petitioner on 26.12.2018) quash the same and to direct the fourth respondent to issue refund orders for Rs.2,30,876.00/- and the interest collected Rs.49,906.00/- and Rs.52,547.00/- collected for the stock difference.

For Petitioner	: Mr. A. S. Mujibur Rahman
For Respondents	: Mr. G. Arjunan, Government Advocate.

**O R D E R**

Heard the learned counsel on either side.

2. The petitioner is a dealer registered with the fourth respondent. The assessment year pertains to 2011-12. The petitioner's deemed assessment order sought to be reopened based on mismatch. After issuing pre-revision notice, the impugned order came to be passed. Questioning the same, this writ petition has been filed.

3. It is seen that when the case of the department rests on mismatch, then the procedure set out in JKM Graphics Solutions P. Ltd., V. C.T.O.(Mad) reported in (2017) 99 VST 343(Mad) should have been followed. Since it was not followed, the impugned order became vulnerable on that ground. That apart, even though the petitioner has given reply, personal hearing was not given. On these twin grounds, the order impugned in this writ petition is quashed.

4. This writ petition stands allowed. The matter is remitted to the file of the fourth respondent to pass orders afresh in accordance with law. No costs. Consequently, connected miscellaneous petition is 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:

1. The Secretary to Government,
Department of Commercial Taxes,
Fort St. George, Beach Road, Chennai - 600 009.
2. The Commissioner of Commercial Taxes,
2nd Floor, Elilagam, Chepauk, Chennai - 600 005.



3. The Commercial Tax Officer
Enforcement Wing Group II,
C.T.Buildings, Satchiapuram,
Sivakasi, Virudhunagar District.

4. The Commercial Tax Officer-1,
Sivakasi, Virudhunagar District.

5. The Assistant Commissioner(C.T)-III,
C.T.Building, Beach Road, Tuticorin.

+1 CC to M/s.SPL GP (SR-9194[F] dated 05/03/2021)

+1 CC to M/s.MOHAMED IBRAHIM ALI, Advocate (SR-9043[F] dated
05/03/2021)

W.P. (MD) No.462 of 2019
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SGS (CO)
KB(22.04.2021) 3P 8C