BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.908 of 2019 and
W.M.P.(MD)Nos.739 & 740 of 2019

M/s.Sri Karpagamoorthy Agencies Pvt. Ltd.,
Rep. by its Managing Director K.R.C.T.Solai,
College Road, Sekkalai,
Karaikudi. ... Petitioner

Vs.

1. The Commercial Tax Officer(FAC),
Karaikudi Assessment Circle,
Karaikudi.

2. The Joint Commissioner(CT),
Madurai Division,
Commercial Tax Buildings,
Madurai. ... Respondents

Prayer: 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 33055482698/2013-14 dated 18.11.2016 issued by the first respondent and proceedings dated 23.03.2018 issued by the second respondent in Na.Ka.No.2588/2018A1 and quash both as illegal, arbitrary and further direct the first respondent to pass an order afresh after affording reasonable opportunity of being heard to the petitioner within such time as may be directed by this Court.

For Petitioner : Mr.N.Sudalai Muthu,
for Mr.S.Karunakar

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

O R D E R

Heard the learned counsel on either side.

2. The petitioner is a dealer registered with the first respondent. The petitioner suffered an order dated 18.11.2016 in respect of the assessment year 2013-14. Aggrieved by the same, the petitioner filed rectification petition under Section 84 of Tamil Nadu Value Added Tax Act, 2006. The said petition was rejected vide order dated 12.02.2018 by the first respondent. Questioning the same, the petitioner filed revision petition under Section 54

of Tamil Nadu Value Added Tax Act, 2006 before the second respondent. The petitioner's revision petition was rejected by the impugned communication dated 23.03.2018. Challenging the same, this writ petition came to be filed.

3. Section 54 of Tamil Nadu Value Added Tax Act, 2006 provides for filing a revision petition before the Joint Commissioner in respect of those orders for which appeal has not been provided under Sections 51 or 52 of the Act. It is further stated that an application for revision shall be in a prescribed format. In the case on hand, the petitioner had correctly filed the revision petition in Form-Y as per Rule 14(7) of Tamil Nadu Value Added Tax Rules 2007. Section 54(5) of the Act states that no order shall be passed under Section 54 of the Act adversely affecting a person, unless a person has availed the reasonable opportunity of being heard. In the case on hand, the writ petitioner has not been heard. A casual disposal has been given by the then second respondent. A learned Judge of this Court in the decision reported in 2015-VIL-573-MAD (M/s.Malladi Drugs & Pharmaceuticals Ltd., V. The Assistant Commissioner-CT and three others) held that when a petition is filed seeking rectification, an attempt must be made as to whether the error pointed out by the assessee is an error apparent on the face of the record.

4. In the case on hand, no such endeavour has been made. In any event, there is noncompliance of the requirements set out in Section 54(5) of the Act. Therefore, the order impugned in this writ petition is liable to be quashed and its accordingly quashed. This writ petition stands allowed. The matter is remitted to the file of the second respondent. The second respondent shall number the revision petition filed by the petitioner herein and thereafter, dispose it of on merits and in accordance with law. I make it clear that I have not gone into merits of the matter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// 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 Commercial Tax Officer(FAC),
   Karaikudi Assessment Circle, Karaikudi.

2. The Joint Commissioner(CT),
   Madurai Division,Commercial Tax Buildings, Madurai.

+1 CC to MR.S.KARUNAKAR, Advocate (SR-6057[F] dated 19/02/2021)

+1 CC to SPL GP (SR-6193[F] dated 19/02/2021)

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KM (26.03.2021) 3P 5C