**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**
**DATED: 24.09.2021**
**CORAM:**
**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR**
**W.P.[MD]No.16857 of 2021**

Muthu Electricals,
Proprietor Masanasamy,
S/o. Sudalaimuthu,
No.2/98-1, Ottapidaram Main Road,
Ottapidaram,
Tuticorin District. ... Petitioner

Vs.

1.The Additional Chief Secretary /
Commissioner of Commercial Tax,
Chepauk,
Chennai - 600 005.

2.The Joint Commissioner (CT),
Tirunelveli Division,
Tirunelveli.

3.The Assistant Commissioner (CT),
Ettayapuram,
Tuticorin District.

4.The Deputy Sales Tax Officer,
Ettayapuram,
Tuticorin District. ... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the fourth respondent to pass suitable Revised Assessment Order, pursuant to the order dated 12.04.2017 passed by the first respondent in his Letter No.D3/10452/2017 within the time frame as fixed by this Court.

For Petitioner : Mr.C.Mayilvahana Rajendran
For Respondents : Mr.R.Suresh Kumar
Government Advocate

**O R D E R**

The prayer sought for herein is for a Writ of Mandamus, directing the fourth respondent to pass suitable Revised Assessment Order, pursuant to the order dated 12.04.2017 passed by the first respondent in his Letter No.D3/10452/2017.



**2.** The petitioner is a dealer registered under the Tamil Nadu

Value Added Tax Act, 2006, [in short, 'TNVAT Act']. Insofar as the returns filed for the assessment years 2013-14 and 2014-15, due to some mismatch of sales bills etc., there seems to have been some proceedings issued against the petitioner, as against which the petitioner has given a detailed representation to the head of the department ie., the first respondent on 04.04.2017. Having considered the said request / representation made by the petitioner, the first respondent vide his proceedings dated 12.04.2017, addressed to the second respondent stating the following:

> *"I send herewith a copy of the representation received from Tvl.Muthu Electricals, Ottapidaram, dated 28.03.2017, wherein the petitioner had stated that, they have been assessed based on the details of annexure II of other dealers which was not correct.*
>
> *Your are requested to instruct the Assessing Officer to re-visit to the assessment by providing bill wise details in question of the petitioner to defend the case efficiently, so as to adhere the principles of natural justice.*
>
> *Sd/- C.Chandramouli,*
> *Additional Chief Secretary /*
> *Commissioner of Commercial Taxes"*

**3.** Pursuant to the said directive issued to the second respondent by the first respondent, in turn the second respondent should have issued instructions to the third respondent / Assessing Officer to act upon as indicated in the communication of the first respondent dated 12.04.2017. However, it is in this regard the grievance of the petitioner that, subsequently no communication whatsoever has come from the third respondent / Assessing Officer and therefore, the matter has been kept pending without taking any further decision as directed by the first respondent in his communication dated 12.04.2017.

**4.** Therefore, learned Counsel appearing for the petitioner seeks indulgence of this Court to issue a direction to the third respondent to act upon as directed by the first respondent by his proceedings dated 12.04.2017 and revisit the assessment for the said two assessment years and pass final orders on merits.

**5.** However, learned Government Advocate appearing for the respondents, on instructions would submit that, the petitioner in respect of earlier summons issued in this regard before completing the assessment, as there has been a mismatch, he has not come forward with the bills to verify the mismatch and therefore, the matter could not be proceeded further.

**6.** I have considered the said submissions made by the learned Counsel appearing for the parties and have perused the materials placed before this Court.

**7.** The issue now is whether the instructions given by the first respondent through his letter dated 12.04.2017, referred to above in turn has been acted upon by the second respondent, by giving any direction to the third respondent. If such an instruction has already been given, it is the duty of the Assessing Officer to revisit the assessment for the two assessment years, referred to above and in this regard, if any further inputs or documents are required to verify the alleged mismatch, summons can be issued to the petitioner to get those documents and if any such summon is issued, it is open to the petitioner to make response to the said summons and accordingly, the exercise of revisiting the assessment order can be completed by the third respondent as indicated above.

**8.** In that view of the matter, this court is inclined to dispose of this writ petition with the following direction:

> *"that there shall be a direction to the second respondent that, if the second respondent has not acted upon by giving any suitable direction to the third respondent as indicated by the first respondent vide letter dated 12.04.2017, in respect of the petitioner's case for the assessment years referred to above, an instruction can immediately be given to the third respondent, who on receipt of such instructions or already received the instructions, shall act upon by revisiting the assessment for the respective years and accordingly, complete the reassessment process, for which if any further inputs are required, the same can be procured from the petitioner by issuing summons in this regard. On receipt of the summons, the petitioner shall act upon and produce those inputs to the third respondent. After completing the reassessment exercise, a final order shall be passed by the third respondent, as early as possible".*

**9.** With the above directions, the Writ Petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



MR

To

1.The Additional Chief Secretary /
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+1 CC to M/s.SPL.GP ( SR-30344[F] dated 27/09/2021 )

**W.P.[MD]No.16857 of 2021**
**24.09.2021**

PS(CO)
SB(21.10.2021) 4P 6C