BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.10281 to 10285 of 2017

and

W.M.P.(MD)Nos.7866 to 7870 of 2017

M/s.Saraswathi Medicals,
Represented by its Proprietor S.Ramakrishnan,
207, Theni Main Road, P.P.Chavadi,
Madurai. ... Petitioner in all WPS

-Vs-

The Commercial Tax Officer,
Madurai Rural(South) Assessment Circle,
Madurai. ... Respondent in all WPs

COMMON PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in TIN 33845164055/2010-11, dated 10.04.2017 2011-2012 dated 10.04.2017, 2012-2013 dated 12/04/2017, 2014-2015 dated 17/04/2017 and 2013-2014 dated 13.04.2017 and to quash the same as illegal, arbitrary and in violation of the principles of natural justice and against the proviso Section 3(4)(a) of TNVAT Act, 2006 and direct the respondent to pass assessment order afresh after furnishing records as requested by the petitioner vide letter of objections dated 3.1.2017 including the opportunity of being heard to the petitioner within such time as may be directed by this Court.

For Petitioner : Mr.S.Karunakar
For Respondent : Mr.G.Arjunan
(in all W.Ps.) Government Advocate

COMMON ORDER

Heard the learned counsel on either side.

2.M/s.Saraswathi Medicals is the writ petitioner in all these five writ petitions. The assessment years relate to 2010-11 to 2014-15.The petitioner's deemed assessments were sought to be opened upon verification of the purchase turnover reported with reference to profit and loss account statement and the purchase details taken from the annexures-II of the other end dealers. Discrepancies were noticed. Thereupon, pre-revision notices were issued and after hearing the petitioner, the impugned orders were passed.

3.Though the respondent has filed a counter affidavit for sustaining the impugned orders, I have to uphold the contention of the petitioner's counsel that this is a case, in which, the procedure laid down in *J.K.M.Graphics Solution Private Limited Case* ought to have been followed. Since no enquiry with the other end dealer was conducted, the orders impugned in the writ petitions are liable to be quashed. They are accordingly quashed. These Writ Petitions are allowed. The matter is remitted to the file of the respondent to pass orders afresh in accordance with law. The petitioner is said to have remitted 15% of the disputed tax at the time of admission. The said remittance will abide by the outcome of the order to be passed by the respondent following this remand. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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

The Commercial Tax Officer,
Madurai Rural(South) Assessment Circle,
Madurai.

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-11759[F] dated 17/03/2021)
+1 CC to M/s.SPL GP (SR-11955[F] dated 17/03/2021)

W.P.(MD)Nos.10281 to 10285 of 2017
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VB (30/04/2021) 2P / 4C