IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

WP.No.11557 of 2019
and
WMP.No.11808 of 2019

S.Sivanandhan,
S/o. P.Sathasivam,
Proprietor of Sri Vel Yarns,
18/323, A-4, Opp: Aandavar Pumps,
Seyur Road, Avinashi,
Tiruppur District. ... Petitioner

Vs

1. The Commercial Tax Officer,
   Tiruppur, Tiruppur District.

2. The Assistant Commissioner (ST),
   Avinashi Assessment Circle,
   Avinashi, Tiruppur District.

3. Jaganathan ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order made in TIN No.33683043238/ 2016-2017 dated 14.03.2019 passed by the 2nd respondent, quash the same.

For Petitioner : Mr.Darshan
for Mr.N.Manoharan

For Respondents : Mr.V.Prashanth Kiran (for R1 & R2)
Government Advocate

O R D E R

This writ petition is premature and prima facie misconceived even on merits though the issues on merit are left open in light of the conclusion arrived at in this order.

2. At the time of admission on 16.04.2019, an interim stay was granted on the ground that the reversal of Input Tax Credit

(ITC) has been cancelled on the ground that the registration certificate of the selling dealer has been cancelled retrospectively. Reliance was placed upon the judgment of the Hon'ble Supreme Court in the case of State of Maharashtra vs. Suresh Trading Company ((1997) 11 SCC 378) followed by this Court in several cases.

3.With the completion of pleadings, the counter reveals that the transaction in question, in relation to which ITC is claimed, relates to the period 01.04.2016 to 31.03.2017 whereas the registration of the selling dealer has been cancelled on 27.10.2015 itself. Thus, though retrospective, the cancellation of registration has been effected even prior to the date of transaction and hence, the benefit of the judgment in Suresh Trading Company (supra) and other similar decisions will not enure to the petitioner herein.

4.That apart, what is impugned is a notice. Though in conclusion the Assessing Authority does indicate that the disputed tax arising from the reversal of ITC would have to be paid, the petitioner has filed a reply on 15.03.2019 to impugned notice dated 14.03.2019.

5. Thus, it would be appropriate that the petitioner appear before the official respondents on 24.06.2022 and the Authority, after hearing the petitioner, pass an order within a period of four (4) weeks thereafter, i.e. on or before 25.07.2022, on merits and in accordance with law, uninfluenced by any of the observations made in this order. No notice need be issued afresh as this order will be construed to be sufficient notice.

6.This writ petition stands disposed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

vs

To

1. The Commercial Tax Officer,
   Tiruppur,
   Tiruppur District.

2. The Assistant Commissioner (ST),
   Avinashi Assessment Circle,
   Avinashi, Tiruppur District.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.35203

+1cc to the Special Government Pleader (Taxes), S.R.No.36246

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EV(CO)
UMA(23/06/2022)