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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.19223 of 2022
and
W.M.P(MD)Nos.14019 and 14022 of 2022

Tvl.Madura Dealers,
Represented by its Proprietor,
S.Manjula,
No.25-B, First Floor, Second Street,
Thanthi Nagar,
Madurai-625 014. ... Petitioner

Vs.

The Assistant Commissioner (CT),
O/o of the Assistant Commissioner (CT),
Chokikulam Assessment Circle,
Madurai. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned proceedings of the Respondent in TIN: 33655004352/2012-2013, dated 03.02.2015 and quash the same.

For Petitioner : Mr.Raja Karthikeyan
For Respondent : Mr.P.Subbaraj
Special Government Pleader

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ORDER

This writ petition has been filed challenging the assessment order, dated 03.02.2015 for the Assessment Year 2012-2013, whereby, the petitioner was required to reverse the credit of Input Tax Credit to extent of Rs.1,15,320/- (Rupees One Lakh Fifteen Thousand Three Hundred and Twenty only).

2. It is submitted by the learned counsel for the Petitioner that Pepsico India Holding Private Limited reimbursed the deduction made by the distributor from actual purchase price to the whole sale seller, which is nothing but part of consideration received from the Pepsico on behalf of whole sale seller. If the reimbursed amount is not added to the turnover, the distributors will be selling their products at loss, hence the value addition of the product of each point would be disturbed and break the VAT chain. The Respondent proposed to revise the assessment by reversing the corresponding Input Tax Credit to a tune of Rs.1,15,320/- alleging the claim has been made contrary to Section 19 (16) of the Tamilnadu Value Added Tax Act. It was further submitted that the assessment order was served only on the Petitioner's husband, who was not an authorised representative and that the Petitioner is a senior citizen, the Petitioner had closed the business as early as in 2014 and had shifted the residential address.

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3. It is submitted by the learned Special Government Pleader for the Respondent that the writ petition was filed after seven years after the assessment order was passed and thus liable to be dismissed.

4. It is submitted by the learned counsel for the Petitioner that the proceedings are invalid in the absence of proper service of the order. It is also submitted that the petitioner is willing to demonstrate his bonafide and ready to deposit 50% of the tax amount subject to which they may be permitted to challenge the said order by way of an appeal. The learned Special Government Pleader for the Respondent does not seriously object.

5. In view of the same, this Court directs the Petitioner to deposit 50% of the tax dues for the Assessment Year 2012-2013 within a period of 4 weeks from the date of receipt of copy of this order. If the Petitioner complies with the above condition, the Petitioner may file an appeal within a period of 6 weeks from the date of receipt of copy of this order. If such appeal is filed, the same shall be entertained and orders passed on merits and in accordance with law.

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6. With the above observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

15.09.2022

Index : Yes / No
Internet : Yes/ No
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To

1.The Regional Transport Officer,
Srirangam,
Trichy District.

2.The Sub Inspector of Police,
Ramjee Nagar Police Station,
Trichy District.

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MOHAMMED SHAFFIQ, J.

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W.P(MD).No.19223 of 2022

15.09.2022

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