BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2022

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.3487 of 2018
and
W.M.P(MD).No.3487 of 2018

Tvl.Sri.Venkkatachalapathy Spinning Mills Private Limited,
Represented by its Managing Director
T.V.Kaushik Rajha,
Virudhunagar District.

: Petitioner

Vs

1. The State of Tamilnadu,
Rep.By its Secretary to Government
Department of Commercial Taxes,
Fort.St.George,
Beach Road, Chennai-600 009.

2. The Commissioner Of Commercial Taxes,
2nd Floor, Elilagam,
Chepauk, Chennai-600 005

3. The Assistant Commissioner (C.T)-1,
Rajapalayam,
Virudhunagar District

: Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records relating to the orders passed by the 3rd Respondent in his proceedings in TIN 33686040829/2013-14,2014-15 dated 29/01/2018 received by the

Petitioner on 31/01/2018 and quash the same and to direct the 3rd Respondent to consider the representation of the Petitioner dated 02/01/2018 submitted to the 3rd Respondent pass the revised orders under section 84 of the TN VAT ACT 2006 and to issue the refund orders and refund vouchers for the TN Vat Assessment years 2013-2014 and 2014-15 as per the representation made by the petitioner on 02/01/2018 to the 3rd Respondent to issue refund order for Rs.32,23,833.00.

For Petitioner : Mr.A.Chandrasekaran
For R1 to R3 : Mr.M.Prakash
Additional Government Pleader

ORDER

The present writ petition had been filed in the nature of Certiorarified Mandamus, challenging the order passed by the 3rd Respondent in TIN 33686040829/2013-14, 2014-15, dated 29.01.2018.

2.The common question that arises for consideration in this Writ Petition relates to interpretation of the amendment made to Section 19(2)(v) and the insertion of the proviso to Section 19(2) vide amendment Act No.28 of 2013 and its subsequent omission vide amendment Act No.5 of 2015. The scope and ambit of the above amendments stand resolved by the Division Bench of this Court in W.A.No.1260 of 2017, dated 31.03.2022. An attempt was made to suggest that the State intends to file an appeal against the above order of the Division Bench, similar submission made has been considered and the following orders were passed in W.A.No.812 of 2019 dated 08.09.2022.

> *3. Though there is a request for adjournment stating that the State is proposing to file an appeal, we are inclined to dismiss this writ appeal considering the fact that the issues are now covered against the State. However, we leave it open to the State to work out their remedy before the Hon'ble Supreme Court along with other cases where an order has been passed as referred to supra.*

3. Following the same, the impugned order dated 29.01.2018 is set aside and the matter is remitted back to the Assessing Officer to redo the assessment in terms of the Division Bench judgments in W.A.No.1260 of 2017, dated 31.03.2022 and W.A.No.812 of 2019 dated 08.09.2022, within a period of four months, from the date of receipt of a copy of this order.

4.With the above direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

29.09.2022

Index : Yes / No
Internet : Yes/ No
lr

To
1. The Secretary to Government
Department of Commercial Taxes,
Fort.St.George,
Beach Road, Chennai-600 009.

2. The Commissioner Of Commercial Taxes,
2nd Floor, Elilagam,
Chepauk, Chennai-600 005

3. The Assistant Commissioner (C.T)-1,
Rajapalayam,
Virudhunagar District

MOHAMMED SHAFFIQ, J.

lr

W.P(MD).No.3487 of 2018

29.09.2022