BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)Nos.24791 and 24794 of 2019
and
W.M.P.(MD)Nos.21386 and 21388 of 2019

M/s.Velmurugan Timbers,
Represented by its Partner R.Subramanian,
2/45, Pottalvilai Street,
Shenkottai. ... Petitioner in both W.Ps'

Vs.

The Commercial Tax Officer,
Shenkottai Assessment Circle,
Commercial Taxes Buildings,
Shenkottai. ... Respondent in both W.Ps'

COMMON PRAYER : Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records on the file of the Respondent in TIN No.33295702271/2010-11 and TIN No.33295702271/2011-12 dated 25.05.2015 issued by the

Respondent and quash the same is wholly without jurisdiction, being contrary to the judgment of this Court reported in the case of The Assistant Commissioner (CT), Koyambedu Assessment Circle, Chennai vs. Infiniti Wholesale Limited Vs reported in (2017) 99 VST 430 and direct the Respondent to conduct an enquiry with other end dealers as contemplated under Section 27 of the TNVAT Act, 2006.

For Petitioner in both W.Ps'	:	Mr.S.Karunakar
For Respondent in both W.Ps'	:	Mr.T.Amjadkhan Government Advocate

COMMON ORDER

These Writ Petitions are filed challenging the impugned order of assessment dated 25.05.2015 for the assessment years 2010-11 and 2011-12.

2. The Petitioner's place of business was audited by the Enforcement Officers on 19.02.2015. During the course of inspection, the following defects were noticed. For the assessment year 2010-11, the Petitioner have claimed Income Tax Credit of Rs.33,595/-, on Rs.2,68,767/- representing purchase value of

goods. The consignors have not disclosed the above transactions in their monthly returns nor tax paid to the Department. In the circumstances, the claim of Income Tax Credit was sought to be disallowed. It was found that certain invoices from Sri Jothi Timber Tiles was not produced before the Enforcement Officers in respect of the alleged purchase turnover of Rs. 51,680/- and the same was treated as purchase omission, to which, gross profit @ 10% was added and equal addition was made arriving total sales suppression of Rs.1,13,696/-. For the assessment year 2011-12, the Petitioner have claimed Input Tax Credit on a turnover of Rs.47,46,944/-. However, the consignors have not disclosed the transactions in their monthly returns nor tax paid to the Department. It was thus proposed to reverse or deny Input Tax Credit of Rs.6,39,372/-. It was found that there was purchase omission on the basis of which sales suppression of Rs.17,59,440/- was arrived at by way of best judgment by adding gross profit @ 10% and making equal time addition.

3. It is submitted by the learned Government Advocate for the Respondent that the assessment orders have been made in the year 2015.

However, these Writ Petitions have been filed after a lapse of four years and hence, it is hit by laches.

4. The learned counsel for the Petitioner submitted that the issue raised in these petitions is covered by the decision of this Court in ***Sri Vinayaga Agencies Vs. Assistant Commissioner (CT), Vadapalani-I Assessment Circle, Chennai and another*** reported in ***(2013) 60 VST 283*** which has been consistently followed by this Court. He further submitted that no personal hearing was granted and therefore, the order is also in violation of principles of natural justice.

5. The learned Government Advocate for the Respondent submitted that the Petitioner may be put on terms.

6. Taking the above submission into consideration, this Court is of the view that the Petitioner shall pay 50% of the tax demand within a period of three weeks from the date of receipt of a copy of this order. On complying with the above condition, the Respondent shall grant reasonable

opportunity including personal hearing and shall redo the assessment within further period of six weeks thereafter. If the above condition is not complied, the impugned orders will stand restored and it is open to the Respondent to take appropriate action in accordance with law.

7. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

13.09.2022

Index : Yes / No
Speaking Order : Yes / No

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To

The Commercial Tax Officer,
Shenkottai Assessment Circle,
Commercial Taxes Buildings,
Shenkottai.

MOHAMMED SHAFFIQ, J.

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