BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2022

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.14608 of 2017
and
W.M.P.(MD).No.11457 of 2017

M/s.L S Mills Limited,
Represented by its Deputy General Manager,
Marketing R.Narayanasamy. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Theni II Assessment Circle,
Theni. ...Respondent

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 of the 2nd respondent in TIN 33025180317/2013-14 (Jan.2014) dated 22.06.2017 and quash as illegal, arbitrary, in violation of principles of natural justice and against the provisions of the TNVAT Act and further direct the respondent to pass a speaking order by not applying Section 2(1) of the Tamil Nadu Value Added Tax (Fifth Amendment) Act, 2013 as much as the petitioner is a manufacture of goods in the State of Tamilnadu and further direct the Respondent to refund the taxes paid on goods exported to the tune of Rs. 18,80,389/- to the petitioner herein for the month of January 2014.

For Petitioner : Mr.S.Karunakar

For Respondent : Mr.M.Prakash,
Additional Government Pleader.

ORDER

The Writ Petition is filed challenging the order of the respondent in TIN 33025180317/2013-14 (Jan.2014) dated 22.06.2017 in respect of the provisional assessment made and further direct the respondent to pass a speaking order by not applying Section 2(1) of the Tamil Nadu Value Added Tax (Fifth Amendment) Act, 2013 as much as the petitioner is a manufacture of goods in the State of Tamilnadu and further direct the Respondent to refund the taxes paid on goods exported to the tune of Rs.18,80,389/- to the petitioner herein for the month of January 2014.

2. The impugned order is by way of provisional assessment. The impugned order of provisional assessment is made almost after two years from the expiry of the assessment year in question. In this regard, it may be relevant to note that it has been held by this Court repeatedly that it is not open to make provisional assessment after the end of the assessment year.[1]

1. 2016 SCC Online Mad 17874, (1978) 28 STC 551

3. In view of the same, the impugned order is set aside. It is open to the the Assessing Officer to pass regular assessment in respect of the assessment year 2013-2014 in accordance with law and after granting the petitioner an opportunity of being heard.

4. Accordingly, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

14.10.2022

Index : Yes / No
Internet : Yes/ No
Lm

To

The Assistant Commissioner (CT),
Theni II Assessment Circle,
Theni.

MOHAMMED SHAFFIQ, J.

Lm

W.P.(MD).No.14608 of 2017

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