IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2023

CORAM :

The HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.6923 of 2023
W.M.P.Nos.7025 & 7026 of 2023

M/s.Udhayan Agencies,
Rep. By its Proprietor,
No.655, Main Road, Kamaraj Nagar,
Kanji Village,
Polur Taluk, Tiruvannamalai District. .. Petitioner

vs

The Deputy State Tax Officer,
Polur Assessment Circle,
Polur Taluk,
Tiruvannamalai District. .. Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the respondent and quash the assessment proceedings in TIN 33634542934/2015-16 dated 20.05.2022 as illegal and direct the respondent to decide the mismatch issue in this case based on orders of the Madras High Court in W.P.Nos. 10525 and 10526 of 2017 dated 07.06.2017 and also based on the circular instructions/ guidelines given by the Commissioner of Commercial Taxes, Chennai in Circular No.5 of 2021 (LW10/12521/2016) dated 24.02.2021 by permitting the petitioner to cross examine the sellers and after providing an opportunity of personal hearing to the petitioner in this case.

For Petitioner	:	Mr.C.Baktha Siromoni
For Respondents	:	Mr.V.Prashanth Kiran Government Advocate

ORDER

Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice and is with instructions to enable final disposal of the matter even at this stage. Hence by consent expressed by both learned counsel, this writ petition is disposed even at the stage of admission.

2. Undoubtedly, the writ petition holds no merit insofar as the challenge is to an order of assessment passed under the provisions of Tamil Nadu Value Added Tax, 2006 (in short 'the Act'), which is dated 20.05.2022 and the writ petition has been instituted on 02.03.2023 which is far beyond the period of statutory limitation. No adequate or worthwhile explanation has been set out in this regard and thus I am not inclined to consider the challenge to impugned order.

3. That apart, learned Government Advocate also points out that the impugned order, where the main addition relates to Input Tax Credit (ITC) on the ground of mis-match, has taken note of all relevant considerations, as per Circular No.5 dated 24.02.2021. Thus even on merits, according to him, this matter warrants no interference. The impugned order is thus not liable to

be assailed by way of the present writ petition and the same needs to be dismissed.

4. Be that as it may, the petitioner has admittedly filed an application for rectification executed on 05.08.2022. There is an acknowledgement of receipt as well dated 05.08.2022. Thus, and notwithstanding that the petition does not specifically refer to the provisions of Section 84, the learned Government Advocate would acquiesce to the position that the same would be disposed as though it were an application for rectification. Let such disposal be within a period of eight weeks from date of receipt of this order, after hearing the petitioner and in accordance with law.

5. This writ petition is dismissed with the aforesaid directions. No costs. Consequently, connected miscellaneous petitions are closed.

06.03.2023

Index:Yes/No
Neutral Citation:Yes
ssm

To
The Deputy State Tax Officer,
Polur Assessment Circle,Polur Taluk,
Tiruvannamalai District.

DR. ANITA SUMANTH,J.

ssm

W.P.No.6923 of 2023

06.03.2023