IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.04.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.Nos.15783 & 15785 of 2020 and
WMP.Nos.19620 & 19622 of 2020

M/s.Falken Leathers & Chemicas,
Rep. by its Proprietor,
No.214, P.C.Street,
Vaniyambadi, Vellore District.

... Petitioner in both W.P.'s

Vs

State Tax Officer
Vaniyambadi Assessment Circle,
Vellore District.

... Respondent in both W.P.'s

PRAYER in W.P.No.15783 of 2020: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, caling for the records of the respondent and to quash the assessment proceedings in TIN 33174642806/2015-16 dated 31.10.2019 as illegal and direct the respondent to pass fresh order as per the various decisions of the Madras High Court relating to WEBSITE mismatch issues after providing an opportunity of personal hearing to the petitioner.

PRAYER in W.P.No.15785 of 2020: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, caling for the records of the respondent and to quash the assessment proceedings in TIN 33174642806/2016-17 dated 31.10.2019 as illegal and direct the respondent to pass fresh order as per the various decisions of the Madras High Court relating to WEBSITE mismatch issues after providing an opportunity of personal hearing to the petitioner.

in both WP's
For Petitioner :Mr.C.Baktha Siromoni
For Respondent :Mr.C.Harsha Raj
Additional Government Pleader

COMMONORDER

Mr.C.Harsha Raj, learned Additional Government Pleader who appears for the respondent would fairly accede to the position that impugned assessments framed in terms of the provisions of Tamil Nadu Value Added Tax, 2006 and relating to the periods 2015 – 2016 and 2016 – 2017, have been framed contrary to the express stipulations in Circular No. 5 of 2021 dated 24.02.2021.

2. Paragraphs 3.3.3 & 3.3.4 of the aforesaid Circular, read thus:-

"3.3 Procedure to be followed in the cases of Mis-Match

....

3.3.3 If the Original Assessing Authority is unable to resolve either the whole or part of the mismatch, then the Original Assessing Authority shall issue notice to the dealer concerned indicating the discrepancy with an opportunity to show cause to reconcile the same. After the receipt of reply and after due enquiry, the Original Assessing Authority finds that the seller has effected the transaction shall make a request to Other End Assessing Authority through email (zimbra mail) marking copy to the concerned DC and JC and seek for the requisite details of verification. If on enquiry Original Assessing Authority is of the view buyer has made bogus claim / wrong claim, by being involved in bill trading by producing bogus invoice, etc., the buyer shall be assessed to tax / reversal of ITC, as the case may *be then the Original Assessing Authority shall pass appropriate orders in accordance with provisions of the TNVAT Act, 2006.*

3.3.4 The Other End Assessing Authority shall verify the details provided to him / her with reference to the manually filed original / revised returns or by issuing show cause notice and calling for the details from the dealer. After the receipt of reply and after due enquiry, the Other End Assessing Authority finds that the seller has reported the transaction and paid the tax due shall report the same to original Assessing authority and both of them shall drop further proceedings and on the other hand that if the whole or part of the transactions are not reported by the seller, then shall initiate assessment proceedings against the seller and shall pass appropriate orders in accordance with provisions of the TNVAT Act, 2006. The result of such action shall be reported to the Original Assessing Authority. "

3. The impugned assessments are dated 31.10.2019, prior to formulation of the procedure as aforesaid. Impugned orders in TIN 33174642806/2015-16 and TIN 33174642806/2016-17 dated 31.10.2019 are set aside and these Writ petitions are allowed. No costs. Connected miscellaneous petitions are closed. Let the materials relied upon be supplied to the petitioner and after hearing the petitioner, orders be passed by the respondent, all with a period of six (6) weeks from date of receipt of a copy of this order.

mpl **03.04.2023**

Index : Yes / No
Speaking Order / Non Speaking Order
Neutral Citation:Yes/No

Dr.ANITA SUMANTH, J.

mpl

To
State Tax Officer
Vaniyambadi Assessment Circle,
Vellore District.

W.P.Nos.15783 & 15785 of 2020 &
WMP.Nos.19620 & 19622 of 2020

03.04.2023