BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.24408 of 2023 and
WMP(MD) No.20599 of 2023

Tvl.Maruthi Trading Corporation,
Rep by its Proprietor P.Chandran,
No.107-R/6, Sadayal Kovil Road,
New Scheme Raod,
Theni District,
Theni – 625 531. Petitioner

Vs

1.The Assistant Commissioner (CT),
Theni-I Circle,
Theni District,
Theni.

2.The Commissioner,
Kodaikanal Municipality,
Kodaikanal,
Theni District. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the impugned assessment order on the file of first respondent vide GSTIN.33ANAPC4782E1ZG/2021-22 dated 06.06.2023 and quash the same as illegal and devoid of merits and direct the respondent to re-do the assessment for the year 2021-22 after providing reasonable opportunity to the petitioner.

For Petitioner	: Mr.Raja.Karthikeyan
For R1	: Mr.G.V.Vairam Santhosh Additional Government Pleader
For R2	: Mr.T.S.Mohammed Mohideen Standing Counsel

O R D E R

This writ petition is filed as against the order passed by the Assistant Commissioner (CT), Theni-I Circle, Theni District/ the first respondent in GSTIN.33ANAPC4782E1ZG/2021-22 dated 06.06.2023 and for a consequential direction to the respondents to redo the assessment for the year 2021-2022 by providing an opportunity to the petitioner.

2.The case of the petitioner is that the petitioner is a registered contractor and he is doing service-maintenance of street lights in the Municipalities of Theni and Dindigul Districts.

According to the petitioner, when he claimed his reported turnover as Rs.1,09,10,226/- for the year 2021-2022, the second respondent/the Commissioner, Kodaikanal Municipality has wrongly reported the petitioner's turnover as Rs.2,30,73,400/-. Therefore, the petitioner has approached the Municipality authorities, who in turn, issued a fresh certificate. With that certificate, the petitioner now wants to submit an application afresh before the first respondent. In the meantime, the first respondent has passed the present impugned order, demanding Rs.3,62,19,700/- as turnover mismatch. Therefore, the petitioner has filed this writ petition challenging the impugned order and to direct the first respondent to re-do the assessment for the year 2021-22 after providing reasonable opportunity to the petitioner.

3.In response to this writ petition, the learned Standing Counsel appearing for the second respondent/Municipality has filed a counter affidavit that a mistake has been made by the tax consultant engaged by the respondent Municipality and the relevant paragraphs are extracted from the counter affidavit.

> “3.The petitioner is a registered contractor holding the contracts relating to street light maintenance in the municipality. The petitioner in the year 2020-2021 has reported transaction with respondent municipality tuning Rs.62,92,708/-. After deducting income tax for Rs.1,17,223/- manual welfare fund Rs.58,796/- and GST Rs.4,61,469/- the amount payable to the contractor comes around Rs.56,55,210/-.
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> 4.The petitioner in the year 2021-2022 has reported transaction with respondent Municipality tuning Rs.1,09,10,226/-. After deducting income tax for Rs.2,10,673/- manual welfare fund Rs.1,05,334/- and GST Rs.5,24,193/- the amount payable to the contractor comes around Rs.1,00,69,306/-
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> 5.Mistakenly Taxation consultant, who was authrized by the Municipality has reported to the first respondent as if the petitioner has executed maintenance work to the tune of Rs.2,62,45,600/- and Rs.2,30,73,400/-. Thus, admittedly this mistake

has taken place by the assisting authority, which has resulted in the impugned order passed by the first respondent. Thus, by recording the statement of Municipality, order impugned has to be modified by the first respondent."

4.In view of the counter filed by the second respondent/Municipality, this writ petition is allowed. The impugned order passed by the first respondent in GSTIN. 33ANAPC4782E1ZG/2021-22 dated 06.06.2023 is set aside and the first respondent shall redo the assessment for the year 2021-2022 with fresh certificate, which has been issued by the second respondent by providing an opportunity of hearing to the petitioner. No costs. Consequently, connected Miscellaneous Petition is closed.

31.10.2023
(2/2)

NCC: Yes/No
Index:Yes/No
Internet:Yes
vrn

To

1.The Assistant Commissioner (CT),
Theni-I Circle,
Theni District,
Theni.

2.The Commissioner,
Kodaikanal Municipality,
Kodaikanal,
Theni District.

B.PUGALENDHI, J.

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Order made in
W.P(MD)No.24408 of 2023 and
WMP(MD) No.20599 of 2023

31.10.2023