IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2024

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.2169, 2172, 2175 and 2178 of 2022
and
W.M.P.Nos.18710, 18712, 18713 and 18714 of 2022

M/s.Bindal Agencies Private Limited,
(Represented by its Managing Director,
Mr.Ravi Saraf),
No.12/2, Venkatachala Mudali Lane,
Parrys,
Chennai – 600 003. ... Petitioner in all W.Ps

Vs.

The State Tax Officer (ST),
Park Town Assessment Circle,
Integrated Commercial Taxes Building,
Room No.306,
Elephant Gate Bridge Road,
Chennai – 600 003. ... Respondent in all W.Ps

Prayer in W.P.No.2169 of 2022: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the files of the respondent herein in TIN/33640301167/2011-12 dated 23.09.2021 and quash the same, insofar as it relates to reversal of input tax credit of Rs.30,374/- and penalty of Rs.15,187/-.

Prayer in W.P.No.2172 of 2022: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the files of the respondent herein in TIN/33640301167/2012-13 dated 23.09.2021 and quash the same, insofar as it relates to reversal of input tax credit of Rs.53,038/- and penalty of Rs.26,519/-.

Prayer in W.P.No.2175 of 2022: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the files of the respondent herein in TIN/33640301167/2013-14 dated 23.09.2021 and quash the same, insofar as it relates to reversal of input tax credit of Rs.5,64,118/- and penalty of Rs.2,82,059/-.

Prayer in W.P.No.2178 of 2022: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the files of the respondent herein in TIN/33640301167/2014-15 dated 23.09.2021 and quash the same, insofar as it relates to reversal of input tax credit of Rs.1,13,400/- and penalty of Rs.56,700/-.

For Petitioner : Mr.N.Prasad

(in all W.Ps)

For Respondent : Ms.Amirtha Poonkodi Dinakaran
(in all W.Ps) Government Advocate

COMMON ORDER

By this common order, all these Writ Petitions are being disposed of.

2. In these Writ Petitions, the petitioner has challenged the respective Assessment orders passed under Section 27 of the TNVAT Act, 2006 on 23.09.2021. The impugned order precedes notices issued to the petitioner on 05.07.2016 for the respective Assessment Years. In all these writ petitions, notices that were issued to the petitioner on 05.07.2016. The allegations against the petitioner was that the petitioner had availed input tax credit under Section 19 of the TNVAT Act, 2006 on the dealers whose registrations were cancelled. In the table to the respective Show Cause Notices, a reference was made to the effective date of cancellation. In the impugned order, a further case is made out by the Department stating that the transaction itself were bogus and therefore input tax credit availed on the ITC passed on to the petitioner were

ineligible.

3. The learned counsel for the petitioner submits that the Show Cause Notice admits that the registration was cancelled retrospectively. It is submitted that on the date when the petitioner purchased the respective scripts namely M/s.Shree Marine Exports. The registration of the selling dealer from whom the petitioner had purchased scripts issued by the Regional Authority under the provisions of the Foreign Trade and Development Act, 1992 and relevant Foreign Trade Policy issued thereunder.

4. That apart, it is submitted that the respondent had not furnished the actual date of cancellation of the registration of the respective dealers from whom the petitioner had purchased the scripts.

5. The learned counsel for the petitioner submits that issue is also

squarely covered by the decision of this Court rendered in the case of

*(i)**Althaf Shoes P Ltd,** Vs. **Assistant Commissioner (CT), Valluvarkottam Assessment Circle, Chennai – 6** reported in **(2012) 50 VST 179 (Mad)**;*

*(ii)**Sri Vinayaga Agencies** Vs. **Assistant Commissioner (CT), Vadapalani 1 Assessment Circle, Chennai – 6** reported in **(2013) 60 VST 283 (Mad)**;*

*(iii)**Deputy Commissioner (CT) Trichy** Vs. **N.Subramania Chettiar** reported in **(1977) 40 STC 434 (Mad)** and*

*(iv)**Sales Service Company** Vs. **State of Tamil Nadu** reported in **(1996) 101 STC 413 (Mad)**.*

6. On the other hand, the learned Government Advocate for the respondent would submit that these decisions have been subsequently diluted by the Division Bench of this Court in the case of ***Tvl.Sahyadri Industries Ltd*** Vs. ***The State of Tamil Nadu, Rep by its The Joint Commissioner (CT), Salem Division, (Now Erode Division), Erode*** vide order dated 18.04.2023 in T.C.Nos.19 of 2022 etc., batch.

7. Having considered the submissions made by the learned counsel

for the petitioner and the learned Government Advocate for the respondent and having perused the notices that preceded the impugned order and the reply of the petitioner and the impugned orders, I am of the view this is a fit case for quashing the impugned order and remitting the case back to the respondent to pass a fresh order on merits after furnishing copies of the orders cancelling the registration certificate of the respective dealers. This exercise may be carried out by the respondent within a period of 30 days from the date of receipt of a copy of this order. It is for the petitioner to thereafter file a fresh/additional reply within a period of 30 days thereafter. The impugned order which stands quashed shall be treated as addendum to the Show Cause Notice dated 05.07.2016. It is open for the Assessing Officer shall pass fresh orders on merits after considering the decision of the Division Bench of this Court in the case of ***Tvl.Sahyadri Industries Ltd*** Vs. ***The State of Tamil Nadu, Rep by its The Joint Commissioner (CT), Salem Division, (Now Erode Division), Erode*** vide order dated 18.04.2023 in T.C.Nos.19 of 2022 etc., batch.

8. The entire exercise shall be completed within a period of six months from the date of receipt of a copy of this order.

9. These Writ Petitions stand allowed with the above observations. No costs. Consequently, connected writ miscellaneous petitions are closed.

24.09.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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To

The State Tax Officer (ST),
Park Town Assessment Circle,
Integrated Commercial Taxes Building,
Room No.306,
Elephant Gate Bridge Road,
Chennai – 600 003.

C.SARAVANAN, J.

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