IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.03.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.7416 of 2024
and
W.M.P.Nos.8307, 8309 & 8310 of 2023

M/s.Deccan Industries,
Rep. By its Managing Partner Karthik K.V,
Old No.259, New No.1390,
Sathy Road, Ganapathy,
Coimbatore-641 006. ... Petitioner

-vs-

1.The Assistant Commissioner (ST)(FAC),
Ganapathy Assessment Circle,
Dr.Balasundaram Road,
Coimbatore-641 018.

2.The Branch Manager,
Central Bank of India,
830, Cross Cut Road,
Gandhipuram, Coimbatore-641 012. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus to call for the impugned proceedings of the First Respondent vide assessment order in TIN

33142200120/2010-11 dated 19.08.2021 and attachment notice vide Ref.No.TIN 33142200120/A3 dated 04.01.2024 to quash the same as both impugned proceedings are clearly contrary to law and against the provisions of TNVAT Act, 2006 and direct the Second respondent to lift the attachment of the Bank Account of the Petitioner and further direct the First Respondent to consider the Rectification Petition filed by the Petitioner under Section 84 of the TNVAT Act and redo the Assessment duly considering the decision of this Court in the case of *Jinsasan Distributors v. CTO (2013) 59 VST 256* after granting reasonable opportunity to the Petitioner on merits and in accordance with law.

For Petitioner : Mr.J.Madhusuthanan

For Respondents : Mr.K.Vasanthamala
Govt. Advocate (Taxes) for R1

ORDER

An assessment order dated 19.08.2021 under the Tamil Nadu Value Added Tax Act, 2006 (the TNVAT Act) is the subject of challenge.

2. The petitioner was engaged in the business of manufacture and sales of water submersible pumps. As a registered person under the TNVAT Act, proceedings were initiated against the petitioner and such proceedings culminated in the impugned assessment order. The petitioner asserts that he did not receive any show cause notice preceding such assessment and was therefore unaware of the same. Upon coming to know of the assessment order, a rectification petition was filed in December, 2022. It is stated that orders were not passed on such petition. Instead, an attachment notice was issued in January, 2024 and amounts payable in terms of the impugned order were appropriated from the petitioner's bank account. The present writ petition was filed in the above facts and circumstances.

3. Learned counsel for the petitioner submits that input tax credit (ITC) was reversed under the impugned order solely on the ground that the registration certificate of the dealer who supplied the relevant goods to the petitioner was cancelled with retrospective effect. He placed reliance on the order of this Court in *Jinsasan Distributors v. Commercial Tax Officer (CT), Chintadripet Assessment Circle, Chennai (2013) 59 VST 256.* Since the

petitioner did not receive the show cause notice, he submits that an opportunity may be given to the petitioner to contest the tax demand.

4. Ms.Vasanthamala, learned Government Advocate, accepts notice for the first respondent. On instructions, she submits that the entire amount due and payable under the impugned order was appropriated pursuant to the the bank attachment.

5. The petitioner asserts that he did not receive a show cause notice prior to the issuance of the assessment order. On perusal of the assessment order, express reference is not made therein therein to a show cause notice. The only references are to a CAG Report for the year 2011-2012 and an office notice dated 29.12.2020 and 23.07.2021. On perusal of the impugned order, it is evident that such order was issued entirely on the basis that the registration certificate of the dealer who supplied goods to the petitioner was cancelled. By taking into account the fact that the entire amount demanded was appropriated from the petitioner's bank account, it is just and appropriate to provide an opportunity to the petitioner to contest the

demand.

6. For reasons set out above, the assessment order dated 19.08.2021 is set aside and the matter is remanded for reconsideration by the assessing officer. The petitioner is permitted to submit a reply by treating the assessment order as a notice for such purpose. Such reply shall be submitted within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, the first respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh assessment order within two months from the date of receipt of petitioner's reply. In view of the assessment order being set aside, the bank attachment shall stand raised. For the avoidance of doubt, it is made clear that amounts appropriated pursuant to the attachment shall abide by the outcome of the remanded proceedings.

7. W.P.No.7416 of 2024 is disposed of on the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

21.03.2024

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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To

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2.The Branch Manager,
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SENTHILKUMAR RAMAMOORTHY,J

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