IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.9072 of 2022
and
W.M.P.Nos.8871 and 8874 of 2022

South Indian Timber Traders,
Represented by its Proprietor
Naushad Ali ... Petitioner

Vs.

The State Tax Officer,
Porur Assessment Circle,
Chennai – 123. ... Respondent

Prayer: 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 No.33046329271/2016-2017/Audit Para: ST7891819AA02 dated 07.03.2022 quashing the same.

For Petitioner : Ms.S.Vishnu Priya
for Mr.N.Inbarajan

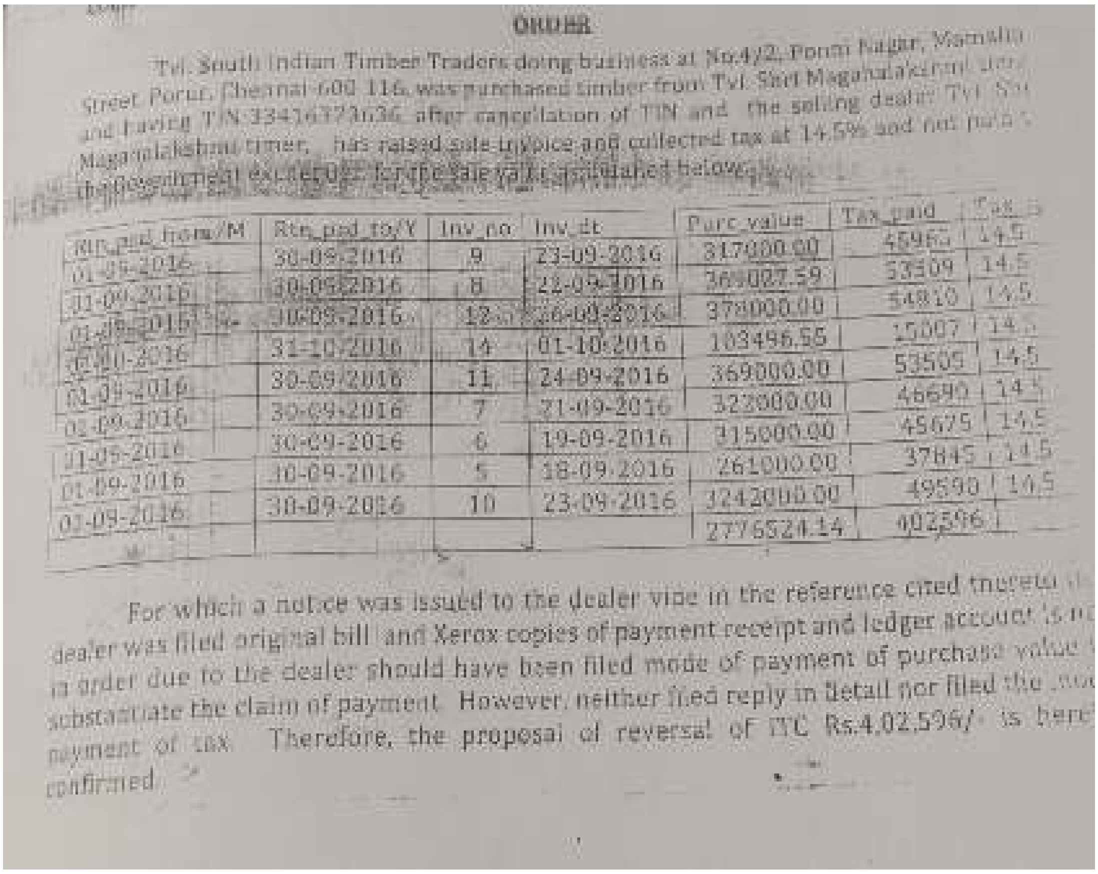
For Respondent : Ms.Amirtha Poonkodi Dinakaran
Government Advocate

ORDER

This Writ Petition is of the year 2022.

2. The petitioner is aggrieved by the Impugned Order dated 07.03.2022 passed by the respondent for the Assessment Year 2016-2017. The Impugned Order precedes notices dated 08.03.2019, 14.01.2020 and 09.02.2021.

3. It appears that the petitioner had failed to respond to the same and therefore the Impugned Order has been passed on 07.03.2022. Operative Portion of the Impugned Order reads as under:-

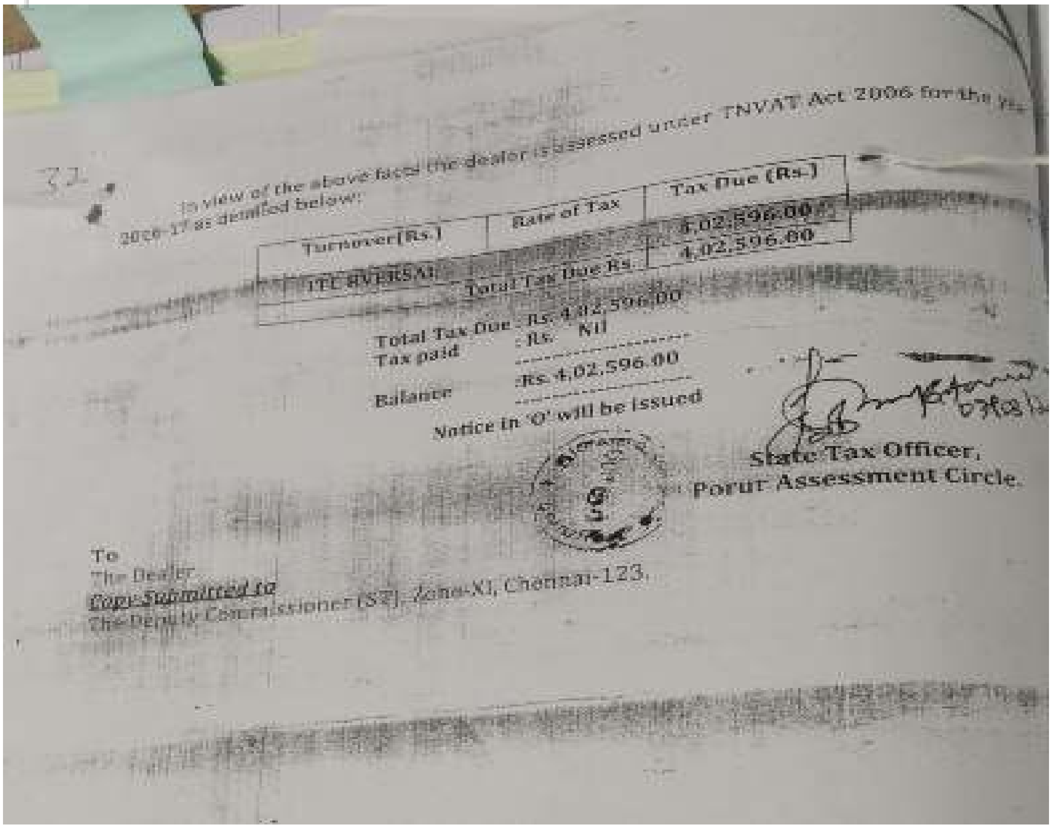


ORDER

Tvl. South Indian Timber Traders doing business at No.4/2, Ponni Nagar, Mamallan Street Porur, Chennai-600 116, was purchased timber from Tvl. Sari Magamalakshmi [illegible] and having TIN 33416373636 after cancellation of TIN and the selling dealer Tvl. Sri Magamalakshmi timer, has raised sale invoice and collected tax at 14.5% and not paid to the Government exchequer for the sale value as detailed below.

Rtn_prd_from/M	Rtn_prd_to/Y	Inv_no	Inv_dt	Purc value	Tax_paid	Tax %
01-09-2016	30-09-2016	9	23-09-2016	317000.00	45965	14.5
01-09-2016	30-09-2016	8	22-09-2016	369027.59	53509	14.5
01-09-2016	30-09-2016	12	26-09-2016	378000.00	54810	14.5
01-10-2016	31-10-2016	14	01-10-2016	103496.55	15007	14.5
01-09-2016	30-09-2016	11	24-09-2016	369000.00	53505	14.5
01-09-2016	30-09-2016	7	21-09-2016	322000.00	46690	14.5
01-09-2016	30-09-2016	6	19-09-2016	315000.00	45675	14.5
01-09-2016	30-09-2016	5	18-09-2016	261000.00	37845	14.5
01-09-2016	30-09-2016	10	23-09-2016	342000.00	49590	14.5
				2776524.14	402596	

For which a notice was issued to the dealer vide in the reference cited thereto [illegible] dealer was filed original bill and Xerox copies of payment receipt and ledger account [illegible] in order due to the dealer should have been filed mode of payment of purchase value [illegible] substantiate the claim of payment. However, neither filed reply in detail nor filed the [illegible] payment of tax. Therefore, the proposal of reversal of ITC Rs.4,02,596/- is hereby confirmed.



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In view of the above facts the dealer is assessed under TNVAT Act 2006 for the year 2016-17 as detailed below:

Turnover(Rs.)	Rate of Tax	Tax Due (Rs.)
ITC REVERSAL		4,02,596.00
	Total Tax Due Rs.	4,02,596.00

Total Tax Due : Rs. 4,02,596.00
Tax paid : Rs. Nil
Balance : Rs. 4,02,596.00

Notice in 'O' will be issued

State Tax Officer,
Porur Assessment Circle.

To
The Dealer
Copy Submitted to
The Deputy Commissioner (ST), Zone-XI, Chennai-123.

4. It is noticed that there is a long gap between the notices that were issued to the petitioner. The second notice dated 14.01.2020 was issued few days before the Country went into lockdown due to outbreak of Covid-19 pandemic. The third notice dated 09.02.2021 was issued when the Country was still under intermittent lockdown.

5. Since the petitioner had failed to respond to the same, the respondent has passed the Impugned Order. It appears that the petitioner has not furnished

any details to substantiate that the Input Tax Credit availed under Section 19 of the Tamil Nadu Value Added Tax (TNVAT) Act, 2006. Be that as it may, the law on the subject has now been settled by the Division Bench of this Court in **Sahyadri Industries Limited** Vs. **State of Tamil Nadu**, (2023) 115 GSTR 320 (Mad.). The conclusion in the said Judgment reads as under:-

> *"232. In the result:*
>
> i. *T.C.Nos.19, 20 & 21 of 2022 are dismissed.*
>
> ii. *W.A.Nos.451 of 2022 & 2714 of 2021 & 2637 to 2640 of 2021 & 119, 125, 131 & 135 of 2022 & 1194, 1195, 1197 & 1201 of 2022 & W.P.No.9372 of 2019 &11482 to 11484, 11488 & 11489 of 2019 & 12450 of 2019 & 15046, 15049, 15050, 15052, 15053 & 15055 of 2019 & 1226, 1230 & 1239 of 2021 & 18761, 18766 & 18769 of 2021 & 11808, 11811, 11812, 11814, 11816 & 11819 of 2022, are dismissed with liberty to the appellants/petitioners to file their respective statutory appeals before the Appellate Authority within thirty days of this order.*
>
> iii. *In W.A.Nos. 2607 and 2618 of 2021, the impugned orders are set aside and the cases are remitted back to the Original Authority to pass a fresh order on merits in the light of the observation in this order.*
>
> iv. *These petitioners/appellants are at liberty to file their appeals/replies/representations before the authority within a period of 30 days from the date of receipt of a copy of this order.*
>
> v. *The Original Authority/Appellate Authority as the case may be shall pass orders within three months of the*

receipt of this order after affording an opportunity of personal hearing."

6. In the light of the above, the Impugned Order is set aside and the matter is remitted back to the respondent to pass a fresh order taking note of the ratio of this Court in the above mentioned case.

7. It is made clear that the petitioner should cooperate with the respondent failing which, the respondent is at liberty to reconfirm the demand as has been confirmed in the Impugned Order.

8. It is expected that orders will be passed within a period of six months from the date of receipt of a copy of this order.

9. This Writ Petition is disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

19.09.2024

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

C.SARAVANAN, J.

arb

To

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Porur Assessment Circle,
Chennai – 123.

W.P.No.9072 of 2022
and
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