IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.21340 of 2023
and
W.M.P.Nos.20737 and 20739 of 2024

Ramasamy Gounder Ponusamy
408-B, Kumar Building,
R.K.Nagar,
Pitchampalayampudur,
Tirupur 641 602. ... Petitioner

Vs.

1. Faceless Assessment Unit
   Assessment Unit,
   Income Tax Department,
   New Delhi.

2. Income Tax Officer,
   Ward 1(1), Tirupur. ... 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 records of the 1st respondent leading to issuance of Impugned Order dated 21.03.2023 vide ITBA/AST/S/147/2022-23/1051081975(1) and quash the same and direct the 1st respondent to pass an Assessment Order after providing an opportunity of hearing to the petitioner.

For Petitioner : Mr.KMC.Arunmokan

For Respondents : Dr.B.Ramasamy
Senior Standing Counsel

ORDER

The present writ petition is filed challenging the impugned order dated 21.03.2023 on the ground that the impugned order insofar it has added the FOB value of exports to the extent of Rs.59,26,71,918/- to the business income, suffers from error apparent on the face of record inasmuch as the impugned order proceeds on the basis that the information uploaded by the customs department on the "insight portal" in respect of Sri Velavan Garments PAN:ASPPP1785L, discloses the following as total value of exports:

Invoice date	*Invoice No.*	*Invoice Currency*	*FOB Value(Rs.)*	*Filer Name*	*Duty Drawback Received (Rs.)*	*Invoice Value (In Rs.)*
2017-07-24	SVG/017/17-18	USD	483269	CBIC	1414861.74	20436962.69
2017-09-01	SVG/021/17-18	USD	196134	CBIC	1414861.74	20436962.69
2017-12-15	SVG/028/17-18	USD	437037	CBIC	1414861.74	20436962.69
2017-09-21	SVG/024/17-18	USD	403392	CBIC	1414861.74	20436962.69
2017-07-06	SVG/014/17-18	USD	2092188	CBIC	1414861.74	20436962.69
2017-06-27	SVG/012/17-18	USD	393280	CBIC	1414861.74	20436962.69
2017-06-20	SVG/011/17-18	USD	1058405	CBIC	1414861.74	20436962.69
2017-06-15	SVG/010/17-18	USD	212211	CBIC	1414861.74	20436962.69
2017-08-16	SVG/019/17-18	USD	446855	CBIC	1414861.74	20436962.69
2017-07-11	SVG/015/17-18	USD	446219	CBIC	1414861.74	20436962.69
2017-08-02	SVG/018/17-18	USD	585350	CBIC	1414861.74	20436962.69
2017-05-23	SVG/005/17-18	USD	1618827	CBIC	1414861.74	20436962.69

Invoice date	*Invoice No.*	*Invoice Currency*	*FOB Value(Rs.)*	*Filer Name*	*Duty Drawback Received (Rs.)*	*Invoice Value (In Rs.)*
2017-06-08	SVG/009/17-18	USD	1592970	CBIC	1414861.74	20436962.69
2017-09-27	SVG/025/17-18	USD	142810	CBIC	1414861.74	20436962.69
2017-10-09	SVG/026/17-18	USD	404118	CBIC	1414861.74	20436962.69
2017-06-03	SVG/008/17-18	USD	348502	CBIC	1414861.74	20436962.69
2017-05-11	SVG/003/17-18	USD	583031	CBIC	1414861.74	20436962.69
2018-01-05	SVG/029/17-18	USD	310973	CBIC	1414861.74	20436962.69
2017-07-03	SVG/013/17-18	USD	1126805	CBIC	1414861.74	20436962.69
2017-04-26	SVG/002/17-18	USD	1064413	CBIC	1414861.74	20436962.69
2017-04-03	SVG/001/17-18	USD	538164	CBIC	1414861.74	20436962.69
2017-08-26	SVG/020/17-18	USD	116706	CBIC	1414861.74	20436962.69
2017-10-10	SVG/027/17-18	USD	31634	CBIC	1414861.74	20436962.69
2017-06-01	SVG/007/17-18	USD	1163748	CBIC	1414861.74	20436962.69
2017-05-12	SVG/004/17-18	USD	544993	CBIC	1414861.74	20436962.69
2017-09-13	SVG/023/17-18	USD	186616	CBIC	1414861.74	20436962.69
2017-09-06	SVG/022/17-18	USD	84645	CBIC	1414861.74	20436962.69
2017-05-25	SVG/006/17-18	USD	307003	CBIC	1414861.74	20436962.69
2017-07-18	SVG/016/17-18	USD	237095	CBIC	1414861.74	20436962.69
TOTAL					41030990.46	592671918

2. It is submitted by the learned counsel for the petitioner that the above figures are wholly incorrect and the FOB value of exports of the petitioner was only Rs.1,71,57,396/-, on which duty drawback of Rs. 14,28,247/- was availed. In support thereof, the learned counsel for the petitioner would also submit the summary of exports along with copies of invoices. The table containing the summary of exports is extracted hereunder :

SUMMARY OF EXPORTS OF SREE VELAVAN GARMENTS FOR AY 2017-18

S.NO.	DATE	INVOICE PARTICULAR	USD (In $)	FOB VALUE (In Rs.)	INVOICE VALUE(Rs.)
1.	24.07.2017	SVG/017/17-18	9085.56	483269.06	576933.06
2.	01.09.2017	SVG/021/17-18	4352.00	196134.40	276134.40
3.	15.12.2017	SVG/028/17-18	7396.87	437037	471180.63
4.	21.09.2017	SVG/024/17-18	9627.94	403391.78	613299.70
5.	06.07.2017	SVG/014/17-18	32176	2092188.20	2092188.20
6.	27.06.2017	SVG/012/17-18	8512.38	393280.33	540536
7.	20.06.2017	SVG/011/17-18	16667.80	1058405.30	1058405.30
8.	15.06.2017	SVG/010/17-18	5043.33	212211.46	343111.46
9.	16.08.2017	SVG/019/17-18	8897.25	446854.51	564530.51
10.	11.07.2017	SVG/015/17-18	8344.32	446219.26	533619.26
11.	02.08.2017	SVG/018/17-18	13051.74	585349.86	820301.86
12.	23.05.2017	SVG/005/17-18	25453.26	1618827.34	1618827.34
13.	08.06.2017	SVG/009/17-18	25007.38	1592970.11	1592970.11
14.	27.09.2017	SVG/025/17-18	4683.70	142809.69	298351.69
15.	09.10.2017	SVG/026/17-18	6284.88	404117.78	404117.78
16.	03.06.2017	SVG/008/17-18	6357.96	348502.05	405002.05
17.	11.05.2017	SVG/003/17-18	9196.08	583031.47	583031.47
18.	05.01.2018	SVG/029/17-18	5424.80	310973.04	340677.44
19.	03.07.2017	SVG/013/17-18	21225.78	1126805.03	1347837.03
20.	26.04.2017	SVG/002/17-18	16670.52	1064412.70	1064412.70
21.	03.04.2017	SVG/001/17-18	10207.44	538163.65	653317.65
22.	26.08.2017	SVG/020/17-18	3827.14	116706.03	242333.03
23.	10.10.2017	SVG/027/17-18	803.02	31634.19	31364.19
24.	01.06.2017	SVG/007/17-18	18269.20	1163748.04	1163748.04
25.	12.05.2017	SVG/004/17-18	11110.86	544992.52	704428.52
26.	13.09.2017	SVG/023/17-18	3864.43	186618.20	244425.20
27.	06.09.2017	SVG/022/17-18	2598.80	84644.86	164893.86
28.	25.05.2017	SVG/006/17-18	5938.92	307003.31	377715.31
29.	18.07.2017	SVG/016/17-18	4810.32	237094.96	307619.96

3. The learned counsel for the petitioner would request that they were unable to participate in the adjudication proceedings as the business was closed

down in the year 2018 and therefore had no occasion to verify / check the web portal wherein the notices were uploaded.

4. The learned counsel for the respondent would submit that the notices were also sent through E-mails. However, the learned counsel for the petitioner would submit that no E-mails were received.

5. This Court finds that apparently there are serious discrepancies in the FOB value adopted by the revenue and that disclosed by petitioners which is glaring when the two tables are Compared. To a pointed question to the learned counsel for the respondent as to inconsistency between two statement and the basis for arriving at Rs.59,26,71,918/- as the FOB value of the exports made, more so when the petitioner invoice wise statement indicated that the FOB value of exports was only Rs.1,71,57,396/-. It was submitted by the learned counsel for the respondent that they would reconsider the issue.

6. In view thereof, the petitioner is granted one final opportunity to produce the documents and the assessing officer would re-consider the same. It is open to the petitioner to produce relevant documentary evidence along with reply within a period of 2 weeks from the date of receipt of a copy of this order,

if any such reply or documentary evidences are filed, the same would be considered and orders shall be passed in accordance with law. If for any reason documentary evidence or replies are not filed within the stipulated period i.e., 2 weeks from the date of receipt of a copy of this order, the assessment order would stand restored.

7. Accordingly, the writ petition is disposed of. Consequently, connected miscellaneous petitions are closed.

07.11.2024

Index : Yes / No
Internet : Yes/ No
spp

To:

1. Faceless Assessment Unit
   Assessment Unit,
   Income Tax Department,
   New Delhi.

2. Income Tax Officer,
   Ward 1(1), Tirupur.

MOHAMMED SHAFFIQ, J.

spp

W.P.No.21340 of 2023
and
W.M.P.Nos.20737 and 20739 of 2024

07.11.2024