IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2024

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.24609 of 2021
and
W.M.P.No.25877 of 2021

Tvl.Carpenters Classics India Pvt Ltd,
Rep by its Director,
Ravi Karumbiah
No.370-375, S.N.Chetty Street,
Tondiarpet,
Chennai – 600 081. ... Petitioner

Vs.

The State Tax Officer,
Tondiarpet Assessment Circle,
No.32, Elephantgate Police Station Bridge Road,
Vepery,
Chennai – 600 003. ... 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 file of the respondent in respect to order passed in CST.33951202175/2013-14 dated 01.10.2021 and quash the same.

For Petitioner : Mr.T.Pramodkumar Chopda
Senior Counsel for
Ms.Harshika

For Respondent : Ms.Amirtha Poonkodi Dinakaran
Government Advocate

ORDER

The petitioner is before this Court against the impugned order dated 01.10.2021. The dispute has arisen on account of the failure on the petitioner to furnish Form F declaration for the stock transfer declaration by the petitioner in other stage.

2. The learned Senior Counsel for the petitioner submits that the petitioner had stocked transferred goods worth of Rs.2,11,02,421.00 and that there were delay in getting Form F before the impugned order was passed for a sum of Rs.89,96,831/-.

3. The learned Senior Counsel for the petitioner further submits that as on date the petitioner has obtained necessary Form F from the Jurisdictional Assessment Circle of the respective depots in the other

states and therefore submits that the petitioner may be given an opportunity to produce the same. Copies of the Form F have been filed before this Court in Page Nos.27-39 of the typed set dated 16.08.2024.

4. The learned Senior Counsel for the petitioner would also submit that for the month of March 2014, the Department has concluded that the petitioner has transported goods worth of Rs.30,22,850.00, whereas, in the returns filed by the petitioner in Form 1, the petitioner has declared only a sum of Rs.9,64,600/-. It is submitted that no other information is forthcoming from the Department to justify the above conclusion. It is submitted that the impugned order is therefore arbitrary and liable to be quashed in so far as the above conclusion is concerned.

5. That apart, the learned Senior Counsel for the petitioner submits that the impugned order itself admits the petitioner had Form F for worth of Rs.1,21,05,590/-. However, in the impugned order exemption has been confined for Rs.77,09,863.00. It is submitted that there is no clear explanation as to why the exemption has been restricted to Rs.77,09,863.00 alone.

6. The learned Government Advocate for the respondent on the other hand would submit that an identical Writ Petition came to be filed before this Court by the petitioner for the Assessment Year 2014-2015 in W.P.No.24610 of 2021 and this Court had disposed of the said writ petition by directing the petitioner to work out the remedy before the Appellate forum. Hence, the petitioner can also be given the same relief as the dispute is almost identical which is covered by the aforesaid Writ Petition.

7. The learned Government Advocate for the respondent also placed reliance on the decision of the Full Bench of this Court in the case of ***State of Tamil Nadu*** Vs. ***Arulmurugan and Company*** reported in 1982 51 STC 381 (Mad).

8. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondent.

9. I am of the view the impugned order can be set aside as the petitioner *prima facie* appears to have obtained Form F for stock turnover of Rs.89,96,831/-. This would require a detailed scrutiny by the Assessing Officer. That apart, the impugned order has also not clearly stated why the Form F has been accepted only for Rs.77,09,863.00, when indeed the petitioner had Form F for Rs.1,21,05,590/-. This would required a re-consideration by the respondent. That apart, the discrepancy between the returns filed by the petitioner in Form 1 under CST Act and the value determined as per the information gathered from the Tamil Nadu Border Check Post has to be furnished, before coming to the conclusion, the petitioner has made excess stock transfer and that for the month of March 2014, the petitioner had filed a erroneous return.

10. Therefore to balance the interest of the parties, Court is inclined to quash the impugned order and remit the case back to the respondent to pass a fresh order on merits. Before passing fresh order, the respondent is directed to issue corrigendum explaining clearly as to details of invoices to the petitioner as to how the Department as arrived at Rs.30,22,850.00

as excess Rs.9,64,600/-. It is expected that entire exercise will be completed within a period of six months, considering the fact that the dispute pertains to the Assessment Year 2013-2014, the Writ Petition stands disposed of.

11. In the light of the above, this Writ Petition is disposed of. No costs. Consequently, connected writ miscellaneous petitions are closed.

12.09.2024

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

The State Tax Officer,
Tondiarpet Assessment Circle,
No.32, Elephantgate Police Station Bridge Road,
Vepery,
Chennai – 600 003.

C.SARAVANAN, J.

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