BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2024

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.11080 of 2023
and
W.M.P.(MD)Nos.9683 and 13582 of 2023

Tvl. Three Star Maligai,
Rep. by its Proprietor,
S.Nizamudeen,
S/o.Sheik Dawood,
No.211-C, West Car Street,
Dindigul -624 001. ... Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner
of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Assistant Commissioner (ST),
Dindigul Town Assessment Circle,
Commercial Taxes Office,
Sub-Collector Office Road,
Dindigul - 624 001. ... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari, calling for records pertaining to the impugned proceedings of the second respondent in TIN:33475241325/2014-15 dated 21.12.2022 and quash the same.

For Petitioner : Mr.B.Rooban

For Respondents : Mr.R.Sureshkumar
Additional Government Pleader

ORDER

This is a second round of litigation before this Court for the Assessment Year 2014-2015. Earlier, an assessment order came to be passed on 30.05.2019 against the petitioner, which was subject matter of challenge before this Court in W.P.(MD)No.1566 of 2021. By an order dated 08.04.2021, this Court had set aside the above said order and remitted the case back to the second respondent herein to pass a fresh order.

2. Pursuant to the above said order, a fresh pre-revision notice dated 31.08.2021 was issued by the second respondent. By the said notice, the petitioner was called upon to produce accounts relating to Assessment Year 2014-2015 as per the notices under Form-PP in TIN: 33475241325/2014-15, dated 28.09.2018, 19.11.2018 and 06.12.2018.

3. It is the case of the petitioner that the petitioner also appeared for the personal hearing fixed by the second respondent on 08.09.2022. It is submitted that the second respondent has passed the order without considering the Profit and Loss Account, Balance Sheets and the Ledger produced before him.

4. The learned counsel for the petitioner has drawn the attention to the Profit and Loss Account for the period from 01.04.2014 to 31.03.2015, and submitted that the total sales turnover of the petitioner was Rs.1,65,05,665/-, as detailed below:-

Particulars	Amount in Rs.
0.5% Sales	45,25,251
Exempted Sales	1,19,80,414
Total	1,65,05,665

5. It is further submitted that the purchase of the petitioner for the same period was Rs.2,29,54,485.39 as detailed below:-

Particulars	Amount in Rs.
14.5% Purchase	35,49,464.71
5% Purchase	1,02,14,521.89
Exempted Purchase	91,90,498.79
Total	2,29,54,485.39

6. It is submitted that the total annual taxable turnover of the petitioner was below Rs.50,00,000/- and therefore, the petitioner was required to pay only 0.5% tax in terms of Section 3(4) of the Tamil Nadu Value Added Tax Act .

7. On the other hand, the learned Additional Government Pleader for the respondents submitted that on verification of the purchase data available in the departmental web portal, it is found that the petitioner had effected purchases for a sum of Rs.2,29,10,160/- for the year 2014-2015. However, the petitioner has reported the sales turnover of Rs.14,22,947/- in the monthly Form K returns filed for the year 2014-2015. Hence, a huge turnover difference of Rs.2,14,87,213/- was noticed and therefore, the impugned order has been passed.

8. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

9. In my view, there is no merit in the challenge to the impugned order in this Writ Petition, as the respondents cannot be found fault with for passing the impugned order. After the earlier order dated 30.05.2019, which was set aside by this Court vide order dated 08.04.2021, it was incumbent on the part of the petitioner to have got ready with the reply. Instead, the petitioner waited till the issuance of pre-revision notice dated 31.08.2021 and has merely submitted only copies of Ledger and Profit and Loss Account.

10. The petitioner should have filed a clear reply as to how there was no case made out by the respondents. That apart, in the counter affidavit, the second respondent has also stated that the petitioner has suppressed the turnover and that there is a tax liability, which has been confirmed vide the impugned order.

11. Considering the above, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed. However, liberty is given to the petitioner to file a statutory appeal before the Appellate Authority within a period of 30 days from the date of receipt of a copy of this order.

Index : Yes/ No **19.06.2024**
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

To

1.The Commissioner of Commercial Taxes,
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Chennai - 600 005.

2.The Assistant Commissioner (ST),
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C.SARAVANAN, J.

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W.P.(MD) No.11080 of 2023

19.06.2024