BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.06.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) Nos.11875 to 11877 of 2023
and
W.M.P.(MD) Nos.10304, 10306 and 10308 of 2023

Tvl.Abbas Electricals,
represented by Proprietor Jummakhan,
... Petitioner in all W.Ps.,

/vs./

The State Tax Officer,
Ramanathapuram Assessment Circle,
Ramanathapuram.

... Respondent in all W.Ps.,

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records on the file of respondent pertaining to the Impugned Assessment order in TIN. 33925442207/2014-15, TIN.33925442207/2016-17 and TIN. 33925442207/2015-16 dated 25.04.2023 and quash the same as illegal and devoid of merits and redo the assessment afresh after providing necessary documents as directed by the Appellate Deputy Commissioner (ST), Madurai in Appeal Nos.25, 27 and 26 of 2022 dated 16.02.2023.

For Petitioner
in all W.Ps., : Mr.Raja.Karthikeyan

For Respondent
in all W.Ps., : Mr.J.K.Jayaselan
Government Advocate

COMMON ORDER

By this common order, all these writ petitions are being disposed of.

2.In these writ petitions, the petitioner is aggrieved by the impugned assessment orders dated 25.04.2023 for the respective assessment years.

3.Earlier, The petitioner had suffered the following assessment orders dated 12.01.2022 in the hands of the respondent for the respective assessment years:

S.No.	Writ Petition	Assessment Order	Assessment Year
1	W.P.(MD) No.11875 of 2023	Bearing TIN No.3392 5442207/2014-15	2014-15
2	W.P.(MD) No.11876 of 2023	Bearing TIN No.3392 5442207/2016-17	2016-17
3	W.P.(MD) No.11877 of 2023	Bearing TIN No.3392 5442207/2015-16	2015-16

4.Aggrieved by the same, the petitioner preferred appeals before the Appellate Deputy Commissioner. The Appellate Deputy Commissioner by 3 separate orders dated 16.02.2023 set aside the assessment orders and remitted the case back to the respondent to pass a fresh order with the following observations:-

> *"The assessing officer first shall provide the copy purchase invoices, details of payment and details of delivery of goods in which the Assessing Officer levied tax against the appellant and to conduct details enquiry in this regard.*
>
> *The assessing officer is also directed to follow the Hon'ble High Court judgment in the case of Tvl.JKM Graphics Solutions Private Limited Vs Commercial Tax officer reported in 99 VST 343 while decide the tax liability against the appellant."*

(The above observation is similar in the other orders passed for the assessment years 2015-16 and 2016-17.)

5.After the aforesaid order was passed, the respondent fixed personal hearing on 19.04.2024, vide intimation dated 24.03.2023.

6.Under these circumstances, the petitioner has asked the respondent to furnish the documents as was ordered to be furnished by the Appellate Deputy Commissioner vide order dated 16.02.2023 for the respective assessment years in

Appeal Nos.25 to 27 of 2016. Instead of furnishing the same, the respondent has now proceeded to pass the impugned orders for the respective assessment years.

7.In the counter that has been filed before this Court by the respondent, the respondent has stated that the petitioner has not furnished the documents. Para 9 of the counter filed by the respondent reads as under:

> *"9. It is submitted that, verification of records available in this office revealed that the dealer had not produced any documentary evidences, even before passing of orders dated 12.01.2022, even to the personal hearing notice dated 24.03.2023 and even before the passing of orders dated 25.04.2023."*

8.It is noticed that the demand that was earlier confirmed has been now confirmed vide impugned order pursuant to the remand order dated 16.02.2023 pursuant to the alleged information gathered by the respondent from the common portal. Unless the information is furnished to the petitioner, the petitioner cannot be saddled with a liability.

9.Therefore, the respondent is directed to furnish the necessary information to the petitioner as was ordered by the Deputy Appellate Commissioner vide order dated 16.02.2023 and thereafter proceed with the assessment.

10.Under these circumstances, the impugned orders are quashed and the case is remitted back to the respondent to pass a fresh order on merits and in accordance with law as expeditiously as possible, preferably within a period of 6 months from the date of receipt of a copy of this order.

11.It is expected that the informations that were directed to be furnished vide order dated 16.02.2023 by the Deputy Appellate Commissioner on 16.02.2023 will be furnished to the petitioner within a period of 2 months from the date of receipt of a copy of this order.

12.The Writ Petitions stand allowed, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No

12.06.2024

To

The State Tax Officer,
Ramanathapuram Assessment Circle,
Ramanathapuram.

C.SARAVANAN, J.

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W.P.(MD) Nos.11875 to 11877 of 2023

12.06.2024