BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.04.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.18343 of 2022
and
W.M.P.(MD) No.13361 of 2022

M/s.Madura Papers,
Represented by its Managing Partner
Mr.S.Pandithurai,
No.8, Panthadi 4th Street,
Madurai. ... Petitioner

Vs.

The Commercial Tax Officer,
Vengalakadai Street Circle,
Madurai. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pertaining to the impugned order passed by the respondent in TIN No.33375140403/2010-11 dated 30.05.2022 and quash the same as illegal, arbitrary and without jurisdiction as the same is barred by limitation as per the provisions of the Tamil Nadu Value Added Tax Act, 2006 and also in view of the judicial decisions rendered by this Court in the case of M.U.A.Arumugaperumal and Sons reported in 16 VST 188 [2008].

For Petitioner : Mr.A.Satheesh Murugan

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

The petitioner had earlier suffered an adverse assessment order in the hands of the respondent on 21.05.2019, wherein, the proposals contained in the revision of assessment notice dated 31.10.2018, was confirmed.

2. The tax that was confirmed pertained to the purchase omission and purchase tax payable by the petitioner. The petitioner had preferred an appeal before the Appellate Deputy Commissioner(ST), Madurai, in Appeal No. 107/2019. The Appellate Deputy Commissioner(ST), by his order, dated 13.10.2021 had set aside the order passed by the respondent and remitted the case back, recording the submissions of the learned counsel for the petitioner that the petitioner will furnish the records before the Assessing Officer without fail.

3. After the aforesaid order was passed by the Appellate Deputy Commissioner(ST) on 13.10.2021, the petitioner was issued with notices for personal hearing and the petitioner was also called upon to furnish further documents. The petitioner appears to have replied to the same. However, while passing the impugned order dated 21.05.2019, the respondent has added further amounts towards the alleged sale omission and ITC reversal on gross verification. Thus, a sum of Rs.89,276/- and Rs.1,03,147/- has been added in the remand proceedings.

4. If the petitioner had filed Returns, along with all the documents required for the assessment year namely 2010-11, the assessment would be deemed to have been completed in terms of proviso 22(1) of the Tamil Nadu Value Added Tax Act, 2006, in which case, the demand made on sale omission and gross verification can be dropped as time barred.

5. The fact remains that the petitioner has not explained the case by furnishing the documents in so far as the purchase omission and purchase tax, which was confirmed by the respondent on 21.05.2019, which was subject to challenge and is covered the order of the Appellate Deputy Commissioner(ST) dated 13.10.2021. The petitioner has made out *prima facie* case on merits in so far as the inclusion of sale omission and reversal of input credit on account of gross verification as it was not a part of the original proceedings.

6. Considering the same, the impugned order is set aside and the case is remitted back to the respondent to pass a fresh orders on merits, subject to the petitioner depositing a sum of Rs.66,117/- towards the purchase omission and the purchase tax of Rs.15,000/- within a period of thirty (30) days of receipt of this order, as admittedly, the petitioner has not furnished any documents to substantiate the case before the respondent. It is needless to state that the amount that is directed to be deposited, at this stage, will be appropriated or refunded subject to the order to be passed in the remand proceedings for all the years. It is left open to the petitioner to canvas the case before the respondent with proper documents.

Accordingly, this Writ Petition is disposed of, with above observations. No costs. Consequently, connected miscellaneous petition is closed.

24.04.2024

Index : Yes / No
Internet : Yes / No
apd/rgm

To
The Commercial Tax Officer,
Vengalakadai Street Circle,
Madurai.

C.SARAVANAN, J.

apd/rgm

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