BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2024

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) Nos.19656 & 19660 of 2020
and
W.M.P.(MD) Nos.16381 & 16386 of 2020

Tvl.Susee Automobiles Pvt. Ltd.,
Represented by its Managing Director
J.Ragiv Subramanian,
S/o.S.Jeyabalan,
No.25, Tamilsangam Road,
Madurai - 625 001. ... Petitioner in both W.Ps.

Vs.

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

2.The State Tax Officer,
Thirupparankundram Assessment Circle,
Commercial Taxes Complex,
Dr.Thangaraj Salai,
Madurai - 625 020. ... Respondents in both W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari calling for the records pertaining to the impugned proceedings of the second respondent in TIN:

33143521454/2006-07 and TIN:33143521454/2007-08 dated 30.11.2020 and quashing the same.

For Petitioner
in both W.Ps. : Mr.S.Rajasekar

For Respondents
in both W.Ps. : Mr.R.Suresh Kumar
Additional Government Pleader

COMMON ORDER

By this common order, both these Writ Petitions are being disposed of.

2. In these Writ Petitions, the petitioner has challenged the impugned Assessment Orders dated 30.11.2020 passed by the second respondent for the Assessment Years 2006-2007 & 2007-2008 under the provisions of the Tamil Nadu Value Added Tax Act, 2006. By the impugned Assessment Orders, the demands have been confirmed.

3. The learned counsel for the petitioner would submit that although the petitioner had given detailed replies on 13.02.2019 separately for the Assessment Years 2006-2007 & 2007-2008 wherein several documents were enclosed, the impugned Assessment Orders record as if the

petitioner has not furnished any documents. It is further submitted that in the reference portion of the impugned Assessment Orders, there is a reference to the reply of the petitioner dated 14.02.2019. The learned counsel for the petitioner would submit that the petitioner has not filed any reply on 14.02.2019. The petitioner has filed reply only on 13.02.2019, wherein, the petitioner has enclosed the following documents:-

For A.Y. 2006-2007	For A.Y. 2007-2008

i. Registered document of title for the purchase of Land. ii. The Ledger Account of the petitioner's business for the Land and Building in the year 2006-2007. iii. Transaction details with Tvl.Susee Auto Sales and Service. iv. Asset-cum-Depreciation Statement as prepared by the Chartered Accountant for Income Tax Purpose for the year 2006-2007. v. Actual Asset-cum-Depreciation Account for the year 2006-2007. vi. Details of tax paid to the demo vehicles. vii. Ledger Accounts for the year 2006-07, which is the basis for the Asset Account for the year 2006-07 for which taxes are paid. viii. Copy of Ledger Adhayam Account during the year 2006-07. ix. Ledger Account of the Discount allowed to the customers on various counts.	i. Mis-matching list furnished by the department. ii. Final Account Statements for the year 2007-08. iii. List of purchases of materials reflected in Annexure-I and included in Workshop Expenses in Final Account for the year 2007-08. iv. Balance Sheet for the year 2007-08. v. Asset-cum-Depreciation Statement as prepared by the Charted Accountant for Income Tax Purpose for the year 2007-08. vi. Actual Asset-cum-Depreciation Account for the year 2007-08. vii. Details of cost, tax paid and insurance paid to the demo vehicles. viii. Ledger Accounts for the year 2007-08, which is the basis for the Asset Account for the year 2007-08 for which taxes are paid. ix. Ledger Adhayam Account during the year 2007-08. x. Ledger Accounts of the Discount allowed to the customers on various counts and the amount received as warranty and discounts.

4. It is submitted that despite the petitioner has filed above documents in support of its contention, the second respondent has held that the petitioner did not produce any purchase invoices for its own

purchases related to the maintenance work.

5. The learned Additional Government Pleader for the respondents would submit that these Writ Petitions are devoid of merits and are liable to be dismissed. It is further submitted that though the petitioner has an alternate remedy before the Deputy Appellate Commissioner under provisions of the Tamil Nadu Value Added Tax Act, 2006, the petitioner has approached this Court by way of these Writ Petitions and therefore, the petitioner may be directed to work out its remedy before the Deputy Appellate Commissioner. He therefore prayed for dismissal of these Writ Petitions.

6. Having considered the arguments advanced by the leaned counsel for the petitioner and the learned Additional Government Pleader for the respondents, I am of the view that there is manifest violation of principles of natural justice inasmuch as the petitioner has produced documents mentioned above along with the reply dated 13.02.2019. These have not been considered. Instead, the petitioner has been blamed for not producing purchase invoices. In case, any shortcoming was noticed in the documents filed by the petitioner, the petitioner could have been called upon to produce such documents such as purchase invoices.

However, in the impugned order, the shortcoming has been pointed out for the first time.

7. Considering the same, the impugned Assessment Orders are set aside and the cases are remitted back to the second respondent to pass fresh orders on merits within a period of 3 months from the date of disposal of this order.

8. The petitioner is given liberty to file additional documents and representations, if any, within a period of 30 days from the date of disposal of this order.

9. In the result, these Writ Petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

01.07.2024

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

JEN

Copy To:

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O/o. The Principal and Special Commissioner of Commercial Taxes,
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C.SARAVANAN, J.

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