BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.06.2024**

CORAM:

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

W.P.(MD) No.29687 of 2023
and
W.M.P.(MD) Nos.25616 and 25617 of 2023 and 3015 of 2024

TVL.Vigneshwara Traders,
rep. by its Proprietor R.Jayaprakash ... Petitioner

/vs./

The State Tax Officer (ST),
Theni-II Assessment Circle,
Theni District. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the impugned assessment order on the file of respondent vide TIN-33555181626/2007-08, dated 24.12.2021 and quash the same as illegal and devoid of merits.

For Petitioner : Mr.Raja.Karthikeyan

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

ORDER

In this writ petition, the petitioner has challenged the impugned assessment order passed for the assessment year 2007-08 dated 24.12.2021. This writ petition was filed belatedly on 08.12.2023.

2.The case of the petitioner is that the impugned order admits that the petitioner was engaged in sale of Garlic, which is an exempted commodity under Section 15 of the TNVAT Act, 2006, Entry 34, Part B to 4th Schedule.

3.On the other hand, the impugned order is defended by the learned Additional Government Pleader appearing on behalf of the respondent on the ground that the writ petition is hopelessly time barred and is therefore liable to be dismissed on account of latches as also on account of the fact that the petitioner has an alternate remedy.

4.Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader appearing on behalf of the respondent, it is noticed that the item in question is Garlic, which is exempted from levy under Section 15 of the TNVAT Act, 2006, Entry 34, Part B to 4th Schedule.

5.Section 15 of the TNVAT Act, 2006 reads as under:

*"**15. Exempted sale:-** Sale of goods specified in the Fourth Schedule and the goods exempted by Notification by the Government by any dealer shall be exempted from tax."*

6.The Fourth Schedule reads as under:-

The Fourth Schedule
(Goods exempted from tax by Section 15)
Part – A

Goods produced or manufactures in India and included in the First Schedule to the Additional Duties of Excise (Goods of Special Importance Act, 1957 (Central Act 58 of 1957).

The entire Part A has been omitted from 12th July by Notification No.II (1) / CTR / 12 (R-7)/2011- G.O.No.76 dated 11th July 2011- Act No.30 of 2011. Before its omission, this Part contained the following goods:-

Part B
(Goods exempted from tax under Section 15)

S.No	***Description of Goods***	***Commodity Code Number***
....	......	......
34	*Garlic and Ginger*	*734*

7.Since the item in question is exempted from payment of tax, the respondent ought not to have initiate the proceeding to recover the tax from the petitioner. Considering the same, the impugned order is quashed and accordingly, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.06.2024

Index : Yes / No
Internet : Yes / No
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To

The State Tax Officer (ST),
Theni-II Assessment Circle,
Theni District.

<u>C.SARAVANAN, J.</u>

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W.P.(MD) No.29687 of 2023

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