IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.9256 of 2022
and
WMP.Nos.9020 and 9022 of 2022

Tvl.Bombay Stores
Represented by its Proprietor
R.Tamil Selvi,
884, Bazaar Street,
Attur,
Salem District. ...Petitioner

Vs.

The Deputy State Tax Officer,
Attur (Town) Assessement Circle,
Attur. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the files of the respondent in TIN 3306314228/2015-16 dated 11.11.2021 and quash the same as being without jurisdication and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.B.Raveendran
For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

ORDER

The challenge in this Writ Petition is to the order dated 11.11.2021, passed by the respondent, in rejecting the rectification application on the ground that the same was filed beyond the period of limitation.

2. The learned counsel appearing for the petitioner would submit that as per Section 84 of the Tamil Nadu Value Added Tax Act, 2006 (in short 'TNVAT Act'), the rectification petition can be filed within a period of five years from the date of any order, provided that no such order which has the effect of modifying an assessement or any penalty passed without grant of reasonable opportunity of being heard and in the case on hand the opportunity of personal hearing has not been granted to the petitioner and the application for rectification also filed within five years from the date of passing of assessment order. But, the respondent without fulfilling the mandatory requirement under Section 84 of the TNVAT Act has simply passed the impugned order rejecting the rectification application on the ground that the petitioner has filed the application belatedly i.e., after three

years. He therefore would submit that the impugned order has been passed without application of mind and hence prays to set aside the same.

3. The learned Government Advocate (Taxes) appearing for the respondent would submit that while dealing with all the defects was under the wrong presumption that the rectification application has be filed within a period of one month and therefore rejected the rectification application on the ground of limitation. However, he fairly submitted that since the rectification application can be filed within five years, the request of the petitioner may be considered and hence he prayed for appropriate orders.

4. Heard both sides. Perused the records.

5. There is no dispute with regard to the fact that the rectification application was filed by the petitioner within a period of five years from the date of passing the assessement order i.e.,well within the period limitation. But, the respondent while dealing with all the defects at the time of passing impugned order was under the wrong presumption that the rectification

application should be filed within a period of one month and thereby rejected the rectification application, which in the opinion of this Court is not correct.

6. In such view of the matter, this Court is inclined to set aside the impugned order and remand the matter back to the respondent for fresh consideration.

7. Accordingly, the order impugned herein is set aside and the matter is remanded back to the respondent for fresh consideration. The respondent is direct to deal with the matter afresh and pass appropriate orders, after affording an opportunity of hearing to the petitioner.

8. In the result, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

09.06.2025

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To

The Deputy State Tax Officer,
Attur (Town) Assessement Circle,
Attur.

Krishnan Ramasamy,J.,

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W.P.No.9256 of 2022

09.06.2025