

MADRAS HIGH COURT Judgments in VAT CST GST

by Sampathkumar V V

C form Purchases: The eligibility to use “C” form to avail the concession in rate of tax in respect of the inter State purchase has been considered and held in favour of the dealers in M/s Ramco Cements Ltd. V. The CCT (W.P.Nos.19460 of 2018) dated 26.10.2018. Till such time the order of this Court in the case of M/s Ramco Cements Ltd (supra) is either stayed or reversed it is incumbent upon all Assessing Authorities within the State of Tamil Nadu to apply the rationale of the decision to all pending assessments. The decision of this Court as well as other High Courts, one of which has been confirmed by the Supreme Court, are decisions in rem, applicable to all dealers that seek benefit thereunder, of course, in accordance with law. Stating so, these Writ Petitions are allowed. **M/s.Ram Blue Metals, Vs CTO, Karur (West) Assessment Circle, WP No.9142 of 2020 DT: 13.07.2020**

Natural Justice: The petitioner had appeared before the respondent on 29.08.2019. But the communication of even date issued by the DC, refers to the submissions put forth by the petitioner to the Officer ‘during the personal hearing’. That being said, the order of rejection dated 06.09.2019 states on the ground that the petitioner did not in response to notice is clearly incorrect. Hence, the impugned order dated 06.09.2019, being in violation of principles of natural justice, was quashed. **M/s. Special Wire Products (P) Ltd vs. The Deputy/Assistant Commissioner GST and Central Excise Ambattur Division, Chennai-37. W.P. No.135 of 2020 DT: 22.07.2020**

Registration cancellation: The notice called upon the petitioner to show cause why the registration not be cancelled owing to non- filing of tax returns. The petitioner has filed a response dated 20.12.2018, which was referred to in the first paragraph of the impugned order itself. However, the respondent proceeds as though there was no response from the petitioner. Thus, the contents of the response have not been taken into consideration at all. Hence, the impugned order was set aside. **S Two Solutions, Vs AC (ST), Tondiarpet Assessment Circle, W.P. No.215 of 2020 DT: 17.07.2020**

Rectification petition: The petitioner claims to have filed a petition u/s 84 of the TNVAT Act, 2006 which is stated to be still pending. The respondent submitted that it is not known as to whether the petitioner has filed any such application under Section 84 of the TNVAT Act, 2006. To protect the interest of both parties, the Court disposed this Writ Petition with the direction that if any such application under Section 84 of the TNVAT Act, 2006, as claimed by the petitioner, is filed and the same is pending as on today, the same shall be considered by the respondent on its own merits and an order shall be passed and if no such application is either filed or pending before the respondent, the directions given stand vacated automatically. **M/s.Balajee Textiles Vs AC [ST] [FAC] Pallipalayam W.P.No.7690 of 2020 DT: 19.05.2020.**

Discount earned: The one of the issues relate to the reversal of input tax credit (ITC) on discounts received. Section 19(20) of TNGST Act 2006, which has been invoked to deny the benefit of ITC, has itself been inserted only with effect from 19.08.2010. The Supreme Court in the case of Jayam and Co. Vs. AC (2016) 96 VST 1 reversed the conclusion of this Court, confirming the position that Section 19(20) would operate only from the date of its insertion, prospectively, i.e., from 19th August, 2010. Thus, the provisions of section 19(20) could not have been invoked in the present case, for the period, viz. 2008-09. **M/s. Nuts N Spices Vs CTO, Valluvarkottam Assessment Circle, WP No. 34921 of 2019 DT: 05.06.2020**

Mismatch: Mismatch of reported purchases of buyer and sales of sellers in web portal of department has been considered in M/s.JKM Graphics Solutions P Ltd V. CTO (99 VST 343) and pursuant thereto, a Circular was issued by the Commissioner in No.3 of 2019 (Q1/39643/2018 dated 18.01.2019), to keep assessments involving the issue of mismatch in abeyance. Hence, there is no justification for the AO to have finalized the assessments, being clearly contrary to the directive of the Commissioner. Hence, the impugned orders of assessment are set aside. **ANABOND LTD vs. AC(ST), Tiruvanmiyur Assessment Circle, W.P.No.9559 etc of 2020 DT: 22.07.2020**

Independent application of mind: Respondent submitted that the impugned assessments are passed entirely upon the report of the officials of the Enforcement Wing and do not reflect any independent application of mind on the part of the AO. The impugned orders are also not in line with the Circular No.3/2019 issued by Commissioner dated 18.01.2019 relating to mismatch. Thus, it is clear that even in the case where there is an adverse report by the Enforcement Wing in regard to a particular issue, the AO is at liberty and in fact ought to examine the issue independently. Admittedly, this has not been done in this case. Hence, the impugned orders are quashed. **M/s.Chhotabhai Retailing India P. Ltd., Vs AC (ST), Nungambakkam Assessment Circle, W.P. Nos.31506 & 31507 of 2018 DATED: 17.07.2020**

Service of orders: The orders of assessment appear to have been dispatched, but they have been returned and have not been served upon the assessee. Hence, the orders of assessment giving rise to the impugned demands admittedly have not been served upon the petitioner, the impugned recovery notice has no legs to stand and quashed. **M/s.V.K.R. Projects (P) Ltd Vs. AC(ST), Salem Town (West) W.P.No.9228 of 2020 Dt: 22.07.2020**

Assessment order: The impugned order admittedly been passed without issuance of a prior show cause notice. When the proprietrix of the petitioner, has passed away on 27.12.2016, any order to revise the original order of assessment dated 07.10.2013 ought to have been passed only after notice to the legal representatives. This has not been done. Hence, the impugned order, passed on the petitioner/sole proprietary where the proprietrix has passed away and without notice to her legal representatives, has no legs to stand. **Mr.T.R.N.Murthy, vs AC (CT), Saligramam Assessment Circle, WP No.9135 of 2020 DT: 13.07.2020**