



W.P.No.4928 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2024

WEB COPY

CORAM :

**THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN**

**W.P.No.4928 of 2008
& MP.No.1 of 2008**

Ruckmani Electricals,
Rep. by its Partner,
R.K.Vijayakumar,
No.88, Shunnambukara Street,
Vellore-632 004.

... Petitioner

VS

1.The Tamilnadu Sales Tax Appellate Tribunal,
Rep. by its Secretary,
Second Floor,
City Civil Court Buildings,
Chennai-600 104.

2.The Appellate Assistant Commissioner (CT),
Fort Round,
Vellore-632 001.

3.The Commercial Tax Officer (FAC),
Vellore (South) Assessment Circle,
Fort Round,
Vellore – 632 001.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorari to call for the records of the first



W.P.No.4928 of 2008

respondent in S.T.A.No.44 of 2003 dated 1.8.2007 and quash the same as illegal, arbitrary and against provisions of the Act.

For Petitioner : Mr.S.Kaarthick
for Mr.K.Soundararajan

For Respondents : Mr.G.Nanmaran
Special Government Pleader

ORDER

(Order of the Court was made by Dr.ANITA SUMANTH.,J)

The petitioner is a registered dealer under the Tamil Nadu General Sales Tax Act, 1959 (in short 'Act'). In respect of the period 2000-2001, an order of assessment was made under the Act on 30.09.2002. Prior to the proceedings for assessment, an inspection had taken place on 13.12.2000 and various discrepancies had been found.

2. In concluding the assessment, after providing appropriate opportunity to the assessee, the assessing authority made an addition on account of purchase suppression towards Aluminium winding wires of Rs.41,356/-, adding 15% towards freight and Gross Profit. Two equal time additions were made for probable omission for the previous period, till the date of inspection. An addition was also made towards sales suppression and second sales of electrical goods. Penalty in terms of Section 16(2)(d) of the Act at the rate of 150% was imposed in relation to



W.P.No.4928 of 2008

the sales/purchase suppression.

WEB COPY 3. An appeal was filed by the petitioner before the first appellate authority who, upon consideration of the submissions made, allowed the appeal in full by order dated 14.11.2002.

4. Assailing this, the revenue filed an appeal before the Tamil Nadu Sales Tax Appellate Tribunal ('STAT'/Tribunal). The Tribunal reversed the order of the first appellate authority allowing the State appeal. The argument of the assessee/petitioner had been that the amounts added towards alleged suppression of sales and purchase turnover had, in fact, figured in the closing balance for the previous assessment period, that is, 1999-2000. Hence, it was contended that the purchase/sales were duly accounted for and the additions were unwarranted.

5. To this end, the petitioner had produced, as additional evidence, a single sheet of paper styled as a 'trading account' setting out the closing balance of the previous year.

*Rukmani Electricals
Vellore*

*TNGST No:4221362
ASST YEAR:1999-2000*

TRADING ACCOUNT

<i>(LF-81) Opening Stock (II)</i>	<i>6,05,800/-</i>
<i>("87) Purchases(II)</i>	<i>5,28,568/-</i>
<i>("90) Carriage Inwards (II)</i>	<i>2,569/-</i>



W.P.No.4928 of 2008

WEB COPY Less: Closing Stock (II)

("105) Sales (II)

Gross Profit (7%)

11,36,937/-

5,39,000/-

5,97,937/-

6,37,369/-

39,432/-

The first appellate authority had accepted this paper unconditionally.

6. The Tribunal, in our view, rightly, found fault with the admission of the additional evidence merely for the asking. The purported trading account had not been found by the authorities, or produced by the petitioner at the time of the inspection. Neither has the document been produced before the assessing authority during proceedings for assessment.

7. Thus, we agree with this conclusion of the Tribunal that the trading account, if at all such document existed, ought to have been produced before the authorities at the time of inspection or at least before the assessing officer. No reason has been assigned for such non-production at the relevant point in time and neither has the Appellate Assistant Commissioner assigned any reason for permitting the admission of the document, belatedly. There is thus no evidence whatsoever to prove the assessee's argument that the stock relating to the turnover added as



W.P.No.4928 of 2008

suppression of purchase/sales, formed part of the closing stock for the previous period. This argument of the petitioner is rejected and the conclusion of the Tribunal in this regard is confirmed.

8. However, we are of the considered view that two equal time additions towards purchase suppression is unwarranted. The business premises of the petitioner has been subjected to inspection and the authorities had full access to the documents and books of accounts. They were thus in full possession of all particulars to enable a proper quantification of turnover. The books of accounts maintained by the petitioner have been accepted and the assessing authority has not rejected the same. The authority however found some material/evidences indicating purchase suppression and have made additions on this account, which we have confirmed.

9. In the absence of any other material/evidence over and above what was found to lead to the addition made to turnover, we are of the view that there is no justification in estimating any further addition. The double equal estimates made amount to pure speculation as they are admittedly not based on any adverse material.

10. For these reasons, we delete the two equal time additions while sustaining the additions towards the purchase/sale suppression as well as



W.P.No.4928 of 2008

the penalty. Let effect be given to this order forthwith.

WEB COPY 11. This writ petition is disposed in the aforesaid terms. No costs. Connected miscellaneous petition is closed.

[A.S.M., J] [G.A.M., J]
25.09.2024

Index:Yes
Speaking order
Neutral Citation:Yes
mpl

To

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