

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 17TH DAY OF NOVEMBER, 2014

BEFORE

THE HON' BLE MRS JUSTICE B.V.NAGARATHNA

WRIT PETITION NOS.45286-45287/2014(T-TAR)

BETWEEN:

SRI. SRI PADMANABHA SHENOY
PROP: M/S QUALITY POLYTECH,
PLOT NO.173 A PART,
BAIKAMPADY INDUSTRIAL ESTATE,
MANGALORE - 575001.
AGED ABOUT 49 YEARS,
S/O SRI. UDAYAVARA VISHNU SHENAI.

... PETITIONER

(BY SHRI. THIRUMALES, ADVOCATE)

AND:

1.STATE OF KARNATAKA,
REPRESENTED BY PRINCIPAL SECRETARY TO
GOVERNMENT, FINANCE DEPARTMENT,
GOVERNMENT OF KARNATAKA,
VIDHANA SOUDHA, BANGALORE-560 001.

2. COMMISSIONER OF COMMERCIAL TAXES
KARNATAKA, VANIJYA THERIGE KARYALAYA,
GANDHINAGAR, BANGALORE-560 009.

3. ASST. COMMISSIONER OF COMMERCIAL TAXES
(AUDIT) -6, 4TH FLOOR,
VANIJYA THERIGE BHAVANA, MAIDAN ROAD,

MANGALORE - 575001.

... RESPONDENTS

(BY SHRI. VENKATESH DODDERI, AGA)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT INPUT TAX CREDIT IN THE CASE OF THE PETITIONER CANNOT BE DISALLOWED FOR THE YEARS 2010-11 WITHOUT FIRST INITIATING REASSESSMENT PROCEEDINGS IN THE CASE OF THE SELLING DEALERS FOR NOT HAVING DECLARED THE TURNOVERS REFLECTED IN THE TAX INVOICES ISSUED TO THE PETITIONER & NOT PAYING THE TAX COLLECTED FROM THE PETITIONER VIDE ANNEXURES-D & E ETC.

THESE WRIT PETITIONS COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

Petitioner has assailed order of reassessment dated 10.7.2014, passed under Section 39(1) of the Karnataka Value Added Tax Act, 2003 read with Sections 72(2), 36(1) of the Karnataka Value Added Tax Act, ('Act ' for short) 2003. That order is for the period 2010-11.

2. Learned counsel for the petitioner states that petitioner has been constrained to file this writ petition as against the impugned order, as the petitioner has been

denied input tax benefit under sub-section (4) of Section 10 of the Act. In support of this contention, he states that petitioner has purchased certain goods from registered dealers and has paid tax on those goods. However, registered dealers who sold the goods to the petitioner have not remitted the tax collected from the petitioner to the department. As a consequence, the department has denied the benefit of input tax to the petitioner. Learned counsel states that on account of this fact many registered dealers who are selling goods to the petitioner and other such persons are taking advantage of the stand of the department and are not remitting taxes received from those who have purchased goods from them. In the aforesaid situation, the registered dealers who have purchased goods are faced with prejudice in as much as their right to claim benefit of input tax is denied by the department. It was also brought to my notice that on the one hand dealers such as the petitioner are denied the benefit of input tax deductions and on the other hand, the department is also proceeding against the dealers who

