

### **No Recovery proceedings can be initiated until Investigation is completed**

The Hon'ble Madras High Court in the case of *M/s. Shewil Trading Company v. The Commissioner of Commercial Taxes & Ors. [W.P. No. 26493 of 2022 dated November 02, 2023]* directed the Cyber Crime Cell Inspector to complete the investigation within eighteen (18) months from receipt of a copy of the order. Till such investigation is completed, all revenue recovery proceedings against the Petitioner shall be kept in abeyance. In case, the complaint of the Petitioner turns out to be untrue or was intended to facilitate fraud being committed using the login ID of the Petitioner, the assets of the Petitioner shall be brought to sale and the writ petition stands disposed.

#### **Facts:**

M/s. Shewil Trading Company ("**the Petitioner**") was a dealer engaged in the business of curtains and Form mattresses and Pillows. The Petitioner filed regular returns electronically until December 2013 under the provisions of Tamil Nadu Value Added Tax Rules, 2007 ("**the TNVAT Rules**"). Thereafter, from January 2014, the Petitioner experienced a problem. The Petitioner could not log in and file the return in the portal as the Petitioner's attempt to log in was declined on the screen as an 'invalid login account'. Thus, the manual return was filed, and the issue was escalated to the Assistant Commissioner (CT) multiple times.

The Petition also filed a complaint before the Cyber Crime Cell, on August 31, 2015, which culminated in an FIR dated April 06, 2017, in Crime No. 100 of 2017. The Petitioner reiterated the alleged misuse of the Petitioner's login ID and Password. Consequently, a huge transaction was made by a person using the Petitioner's TIN number. Thereafter, the Order dated July 29, 2022, was issued to the Petitioner seeking recovery of Rs.11,63,24,233/- for the Assessment Year 2014-2015 and 2015-2016 ("**the Impugned Order**"). Hence, the Petitioner filed a Writ Petition under Article 226 of the Constitution of India.

#### **Issue:**

Whether evaded tax amount be recovered without proper investigation?

**Held:**

The Hon'ble Madras High Court in the case of ***W.P.No.26493 of 2022*** held under:

- Directed that, the Commercial Tax Officer to issue proper order after a thorough investigation of the Petitioner's complaint regarding an unauthorised person misusing the Petitioner's TIN Number and evading tax.
- Directed that, the Cyber Crime Cell Inspector to carry out a thorough investigation on the complaint filed by the Petitioner as to whether the complaint filed by the Petitioner was genuine or not or whether the Petitioner was facilitating a third party to use his login ID to evade tax and to pass an ineligible Input Tax credit to unknown persons or whether the Petitioner was himself masquerading as an unknown person to evade tax.
- Held that, the investigation shall be completed within a period of eighteen (18) months from the date of receipt of a copy of this order. Till such investigation is completed, all revenue recovery proceedings against the Petitioner shall be kept in abeyance. In case the Petitioner's complaint turns out to be untrue or was intended to facilitate fraud being committed using the Petitioner's login ID, the Petitioner's assets shall be brought to sale.

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