IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 22.04.2015

CORAM:

THE HON'BLE MR. JUSTICE T. RAJA

W.P. No. 11766 of 2015 and 11767 of 2015
and
M.P.Nos.1 of 2015 and 1 of 2015

M/s.Green Industries,
Rep. By is Partner - P.Suresh .. Petitioner in both WPs

Vs.

The Assistant Commissioner [CT],
Podanur Assessment Circle,
Coimbatore. .. Respondent in both WPs

PRAYER in both WPs: These Writ Petitions have been filed under Article 226 of the Constitution of India to issue an order of Writ of Mandamus, to direct the respondent herein to rectify the error on the face of the records in the assessment proceedings for the year 2013-14 and 2014 -15 under TNVAT Act, 2006 dated 26.12.2014 by disposing of the petition filed by the petitioner u/s.84 of TNVAT Act, 2006 dated 24.02.2015 as expeditiously as possible and pass further orders.

For petitioner : Ms.R.Hemalatha in both WPs
For respondent : Mr.S.Kanmani Annamalai,
in both WPs Additional Government Pleader (T)

O R D E R

There are two writ petitions filed by M/s. Green Industries, represented by its Partner Mr. P. Suresh challenging the impugned orders passed by the respondent, on the ground that the respondent ought not to have passed the revised Assessment Proceedings for the year 2013-14 and 2014-15 with the error apparent on the face of the records. However, when the petitioner has filed petitions u/s. 84 of TNVAT Act 2006 for rectification of error in the proceedings, the respondent has not passed any order even after receipt of the rectification petition. As a result, the petitioner was forced to come to this court.

2. Ms. R. Hemalatha, learned counsel appearing for the petitioner indicating the error apparent on the impugned order, would submit that when the sales turnover reported for the year 2013-14 is to the tune of Rs.1,23,93,995/-, he has wrongly calculated the tax amount @ 14.5% for the taxable turnover Rs.1,22,88,679/- instead of assessing the taxable turnover of Rs.25,13,320/- at the rate of 5% tax and on a sales turnover

Rs.97,75,359/- at the rate of 14.5% tax separately. Similarly, for the sales turn over allegedly reported for the year 2014-15, he has wrongly calculated the tax amount @ 14.5% for the taxable turnover Rs.51,43,521/- instead of assessing the taxable turnover of Rs.9,49,893/- at the rate of 5% tax and on a sales turnover Rs.41,93,628/- at the rate of 14.5% tax separately.

3. Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) takes notice for the respondent. With the consent of both the parties, the petition is taken up for disposal at the stage of admission itself.

4. Apparently, when the Assistant Commissioner (CT), Coimbatore, the respondent herein, has got powers under section 84 of TNVAT Act 2006, while arriving at a taxable turnover ought to have fixed precisely the rate of tax. As there appears to be an error apparent on the face of the impugned order, the impugned orders are set aside.

5. In the light of the above, the impugned orders issued by the respondent are set aside and the matters are remanded back to the respondent for fresh consideration on merits and in accordance with law. The said exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

6. With the above direction, both the writ petitions are allowed. Consequently, the connected miscellaneous petitions are closed. No order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vrc/avr

To
The Assistant Commissioner [CT],
Podanur Assessment Circle,
Coimbatore.

+ 2 ccs to M/s. R.Hemalatha, Advocate Sr.21874
+ 1 cc to Special Government Pleader Sr.22131

W.P. Nos.11766 of 2015 &
11767 of 2015
and
M.P.Nos.1 of 2015
and 1 of 2015

RSK(CO)
EU 20.05.2015