IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.13627 of 2015

M/s Yafa Jewellers
rep.by its Proprietor-S.Khader Hussain
No.68/4-A, Maniam Kaliyappa Street
S.K.V.Nagar, Saibaba Colony
K.K.Pudur
Coimbatore 641 038 .. Petitioner

-vs-

The Assistant Commissioner (CT)(FAC)
Saibaba Colony Assessment Circle
Coimbatore 641 018 .. Respondent

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling for the records of the impugned proceedings of the respondent in TIN:33052061993/2013-14 dated 20.02.2015 quash the same as arbitary and illegal.

For Petitioner :: Mr.S.Rajasekar

For Respondent :: Mr.V.Haribabu
Additional Government Pleader

ORDER

This writ petition has been filed by M/s Yafa Jewellers represented by its proprietor, Coimbatore challenging the impugned order on the only sole ground that the objections filed by the petitioner, pursuant to the notice received from the respondent on 22.12.2014, have not been considered properly, resultantly, the respondent passed the impugned order under Section 27 of the Tamil Nadu Value Added Tax Act, 2006.

2. Learned counsel for the petitioner submitted that when the petitioner filed a detailed reply on 5.2.2015 stating that their claim of input tax credit was in order, the respondent being a quasi judicial authority, relying upon the report submitted by the officers of Coimbatore enforcement wing, cannot pass the impugned order without application of mind.

3. Mr.V.Haribabu, learned Additional Government Pleader takes notice on behalf of the respondent.

4. It is the admitted case of the petitioner that they filed their objections on 5.2.2015 stating that they manually filed the returns on 30.4.2014 with the Superintendent, but the respondent, completely overlooking the fact of filing of the returns manually on 30.4.2014 in respect of the purchase and sale transactions, has come to the conclusion that as per the Tamil Nadu Value Added Tax Rules, every dealer is required to file the returns electronically. With regard to defect No.3, it is the admitted case of the petitioner that their sales turnover for the period July, 2013 to February, 2014 was Rs.19,43,53,955/- and that cash and cheque which are excess with their sales turnover, deposited into their account are only borrowings from their friends and relatives as loan without interest, but not sales. Again it has to be mentioned that the respondent is not right in coming to the conclusion that what was produced before the respondent cannot be accepted, since the same were not produced as proof at the time of inspection. Similarly, in respect of defect No.4, when the petitioner had claimed that they have been purchasing materials from their parties at the style of deducting wastage and melting loss and they have made the payment for the net weight only, the same was also rejected for the reason that the reversal has to be made for the loss in the process of manufacture. In respect of defect No.5, when the petitioner had claimed that their client sold the goods and they are having the original invoice, again the same was rejected on the ground that the original invoice was not made available and produced for verification by the officers of the Commercial Taxes department at the time of inspection. The aforesaid reasons taken by the respondent, therefore, in my considered view, are not justifiable, hence, the impugned order is liable to be set aside. Accordingly, by setting aside the impugned order, the respondent is directed to consider the matter afresh after giving a reasonable opportunity to the petitioner. The writ petition stands allowed. Consequently, M.P.Nos.1 & 2 of 2015 are closed. No costs.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

ss

To

The Assistant Commissioner (CT)(FAC)
Saibaba Colony Assessment Circle
Coimbatore 641 018

1 cc to Mrs.R. Hemalatha, Advocate, sr. 24474

W.P.No.13627 of 2015

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