IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 27.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. No.1521 of 2015

M/s. Sabari Enterprises Private Limited
rep by its Managing Director
Mr.P.Sunil Kumar
No.117, Wallajah Road
Chennai-600 002 .. Petitioner

Vs.

1.The Assistant Commissioner (CT)
Chepauk Assessment Circle,
Greams Road
Chennai-600 006

2.The Manager
Karur Vysya Bank
Ramanathapuram
Coimbatore-641 045 ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus calling for the records relating to the order passed by the 1st respondent in TIN.No.33080662606/2014-15/A3 dated 28.11.14 and quash the same as arbitrary, illegal and directing the 1st respondent to pass orders on merits considering the documents filed by the petitioner in accordance with law.

For Petitioner : Mr.A.Thiagarajan , Senior Counsel
for
Mr.S.Ramesh Kumar

For Respondent : Mr.A.N.R. Jayapratap, AGP(T)

ORDER

The petitioner has come forward with the aforesaid prayer.

2. Petitioner is an assessee on the file of the first respondent. The petitioner filed monthly returns with the first respondent and the petitioner has claimed Input Tax Credit as per the provisions of the Act. The ITC was not reversed by the petitioner which is lying with the first respondent. On 12.09.2014 the first respondent issued a notice to reverse the ITC claimed by the petitioner to which the petitioner filed reply. On 05.11.2014 the first respondent issued notice to the second respondent not to make any payment to the petitioner.

3. Learned counsel for the petitioner submits that final assessment order has been passed before the conclusion of the assessment year. Under Section 25 of the Tamil Nadu Value Added Tax Act, the authorities empowered to provisional assessment but they cannot demand amount. In this case they have demanded the amount apart from that they have also asked the bank to not to pay money to the petitioner by the impugned order dated 28.11.2014.

4. Even though the order dated 05.11.2014, has not been questioned, the act of the first respondent in demanding payment before the conclusion of the assessment year is not correct. Hence the impugned order dated 28.11.2014 passed by the first respondent is set aside.

5. Writ petition is disposed of. No costs. The respondent, after affording opportunity of personal hearing to the petitioner, shall pass a reasoned order of assessment on merits and in accordance with law. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kpr

To

1.The Assistant Commissioner (CT)
Chepauk Assessment Circle,
Greams Road
Chennai-600 006

2.The Manager
Karur Vysya Bank
Ramanathapuram
Coimbatore-641 045

+ 1 cc to M/s. S. Rameshkumar, Advocate SR.17659

+ 1 cc Government Pleader Sr.17747

UG(CO)
EU 23.04.2015

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