IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.06.2015

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.Nos.15348 and 15349 of 2015
and
M.P.Nos.1 and 1 of 2015

Tvl.Nitraa Furnitures Private Ltd.,
Rep. by its Managing Director Mr.R.Arumugam,
C.4 Phase 3, Industrial Estate,
Ekkattuthangal, Chennai - 32. ... Petitioner in both W.Ps.

. Vs .

Assistant Commissioner (CT)
Chrompet Assessment Circle, Chennai. ... Respondent in both W.Ps.

Prayer in W.P.No.15348/2015:- Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the order of the respondent dated 20.03.2015 in TIN. No.33410946586/2012-13 and consequent recovery notice dated 22.05.2015 in TIN. No.33410946586/2012-13 and 2013-14 and quash the same.

Prayer in W.P.No.15349/2015:- Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the order of the respondent dated 23.03.2015 in TIN.No.33410946586/2013-14 and quash the same.

In both W.Ps.
For Petitioner : M/s.Adithya Reddy

For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader (T)

COMMON ORDER

There are two writ petitions filed by Tvl.Nitraa Furnitures Private Limited, represented by its Managing Director, challenging the impugned assessment orders passed by the respondent dated 20.03.2015 in TIN. No.33410946586/2012-13 and dated 23.03.2015 in TIN.No.33410946586/2013-14 respectively.

2. Learned counsel appearing for the petitioner would submit that the petitioner company being a dealer in furniture and fittings have got registered under the Tamil Nadu Value Added Tax Act, 2006 [hereinafter referred to as the Act] on the file of the respondent with Tin.No.33410946586. While so, the respondent had issued a notice dated 12.11.2014 to the petitioner for the year 2012-13 and a notice dated 10.02.2015 for the year 2013-14 setting a reason that the petitioner did not file Form-WW. But due to the reasons, which went beyond their control, they were not able to file reply to the respondent within the stipulated time, resultantly, the respondent proceeded in the notice by the orders dated 20.03.2015 and 23.03.2015 respectively.

3. The contention of the learned counsel appearing for the petitioner that failure to file Form-WW cannot be construed as filing of incomplete returns and the further contention that the consequences provided for failure to file Form-WW is only a penalty of Rs.10,000/-. This aspect also has been clarified in a judgment of this Court dated 18.02.2015 passed in W.P.No.4158/2015 which makes it clear that the Assessing Officer cannot impose on the assesses to file Form-WW. But as against the ratio, the respondent, who has no jurisdiction to invoke Section 22(4) of the Act, as the petitioner has filed their complete returns in the proper manner, ought not to have levied penalty of 2% of the reported taxable turn over without any authority of law.

4. This Court is unable to find any merit in the above said two contentions. In the affidavits filed in support of the writ petitions also, the petitioner admits the fact that on receipt of the notice issued by the respondent, the petitioner failed to file reply within the stipulated time. Therefore, the respondent was left with no other option except to pass the final orders. Accordingly, he has proceeded to pass final orders. Consequently, as per Section 63A(2) of the Act, he has only proposed to levy a fine of Rs.10,000/-. But the orders say that he has proposed to levy interest of Rs.10,000/-. As there is a typographical error, this Court, while rectifying the error, made it clear that the petitioner has to pay penalty of Rs.10,000/- under Section 63(A)(2) of the Act. Therefore, in view of the above, this Court finds no merit in these writ petitions.

5. In the result, both these writ petitions fail and the same are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Jrl

To

Assistant Commissioner (CT)
Chrompet Assessment Circle,
Chennai.

+1cc to Mr.Adithya Reddy, Advocate, S.R.No.29759
+1cc to the Special Government Pleader(Forest), S.R.No.29784

W.P.Nos.15348 & 15349/2015

TM(CO)
CA(29/06/2015)