IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.16322 of 2015

M/s Primo Shoes
rep.by its Mg.Partner A.Althaf Ahmed
19, Nungambakkam High Road
Chennai-34 .. Petitioner

-vs-

The Assistant Commissioner (CT)
Valluvarkottam Assessment Circle
10, Palaniyappa Maligai
Greams Road, Chennai-6 .. Respondent

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings in TIN/33411503851/2012-13 dated 12.5.2015 and quash the same as illegal and direct the respondent to refund the ITC of Rs.15,34,715/- as claimed in Form W for the month of February, 2013.

For Petitioner :: Mr.S.Ramanathan

For Respondent :: Mr.Manoharan Sundaram
Additional Government Pleader

ORDER

This writ petition has been filed by M/s Primo Shoes represented by its Managing Partner challenging the impugned order dated 12.5.2015, which is amenable to revisionary jurisdiction under Section 57 of the Tamil Nadu Value Added Tax Act, 2006.

2. Learned counsel for the petitioner, assailing the impugned order, submitted that when the enforcement wing officers had verified all the bills and stocks, the petitioner also gave an undertaking that they are ready to produce the relevant documents whenever called for, however, since the entire claim of input tax credit was disallowed based on the report submitted by the enforcement wing, he has requested the respondent to furnish the copies of the following documents so as to submit a detailed and effective reply:-

"(i) Verification report by Commercial Tax Officer Group VIII.

(ii) Reference by Joint Commissioner (CT), Enforcement (Central) Division in R.C.No.3184/2014/B2 dated 03.03.2015.

(iii) Report of Deputy Commissioner (CT), Enforcement (Central) in Rc.No.1038/2014/A4 dated 04.03.2015.''

But the respondent, without considering the request for furnishing the documents as requested by the petitioner, has simply confirmed the proposal by disallowing the claim of refund of input tax credit of Rs.15,34,715/- on the basis of the report of the Deputy Commissioner in TIN/33411503851/2012-13 dated 12.5.2015. Learned counsel for the petitioner, drawing the notice of this Court to the impugned order, submitted that no doubt the assessing officer has made a mention about the original documents produced for verification by the dealers. Having accepted the purchase files containing the original purchase bills, verification of which disclosed the value added tax charged in the bills, nowhere the respondent has given his independent finding on the same and finally in a three line order, the cryptic impugned order has been passed.

3. This Court is also conscious of the fact that the order impugned can be challenged before the revisionary authority as indicated in the impugned order. But after going through the findings given by the assessment officer, I am of the view that the assessing officer being a quasi-judicial authority has failed to discharge his quasi-judicial powers, because no speaking order has been passed. In any event, the non-speaking order, which has not even dealt with any issues raised by the petitioner or the supportive documents produced by the petitioner, cannot be held to be in order. Further, the respondent has also not produced the documents sought for by the petitioner to enable the petitioner to give a detailed reply.

4. The learned Additional Government Pleader for the respondent also, finding that there is no specific and independent finding given by the assessing officer, suggested to this Court to remit the matter to the respondent-assessing officer for reconsideration of the issues on the basis of the reply filed along with the documents produced by the petitioner and the dealers.

5. In view of the above, the impugned order is hereby set aside and the matter is remitted to the respondent for reconsideration of the issues raised by the petitioner after furnishing him with the copies of the documents referred to in the earlier portion of this order. Needless to mention that the respondent shall give his findings on all the issues raised by the petitioner in connection

with the documents produced by the dealers and also the additional reply that may be filed by the petitioner within ten days from the date of receipt of this order. The respondent shall provide personal hearing before passing final orders. The writ petition is disposed of accordingly. No costs.

ss

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner (CT)
Valluvarkottam Assessment Circle
10, Palaniyappa Maligai
Greams Road
Chennai 600 006

+ 1 cc to Mr.S.Ramanathan, Advocate SR 27780

+ 1 cc to the Spl.Govt. Pleader (Taxes) SR 28146

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