IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.06.2015

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.Nos.16788 and 16789 of 2015
and
M.P.Nos.1 and 1 of 2015

Tvl. Surana Industries Limited,
Rep. by its General Manager (Finance & Accounts)
Cum-Authorised Signatory,
K.Karthik,
No.29, Whites Road,
Chennai-14. ...Petitioner in both W.Ps.

.. Vs ..

The Assistant Commissioner (CT),
Royapettah-I Assessment Circle,
Chennai-28. ...Respondent in both W.Ps.

Prayer in W.P.No.16788/2015:- Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records on the files of the respondent in CST.838428/2009-10, dated 19.12.2014 and quash the same as being without jurisdiction and authority of law and further direct the respondent to pass order afresh as requested vide his representation dated 25.03.2015 submitted under Section 84 of the TNVAT Act 2006.

Prayer in W.P.No.16789/2015:- Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, Calling for the records on the files of the respondent in CST.838428/2010-11 dated 27.01.2015 and quash the same as being without jurisdiction and authority of law and further direct the respondent to pass order afresh as requested vide his representation dated 25.03.2015 submitted under Section 84 of the TNVAT Act 2006.

In both W.Ps.

For Petitioner : Mr.J.Adithya Reddy

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

COMMON ORDER

There are two writ petitions filed by the petitioner viz., Tvl. Surana Industries Limited, Rep. by its General Manager (Finance & Accounts) Cum-Authorised Signatory, K.Karthik, challenging the impugned orders passed by the respondent dated 19.12.2014 in CST.838428/2009-10 and dated 27.01.2015 in CST.838428/2010-11 respectively, seeking to quash the said impugned orders as the same being without jurisdiction and authority of law and further direct the respondent to pass order afresh as requested vide his representation dated 25.03.2015 submitted under Section 84 of the TNVAT Act 2006.

2. The petitioner, who is a registered dealer both under the Tamil Nadu Value Added Tax Act, 2006 as well as Central Sales Tax Act, 1956, insofar as direct inter-State sale is concerned, had collected only 2% concessional rate of tax on the strength of declarations in form 'C'. However, they claimed exemption on the transactions made for stock transfer and consignment sales are concerned. For the assessment year 2009-10, the petitioner had made direct inter-State sale far a value of Rs.4,56,82,402/- and collected 2% concessional rate of tax and paid the same 2% concessional rate of tax along with declarations in form 'C' obtained from the buyer, who are all situated in other States. Insofar as the remaining turnover of Rs.1,66,83,342.00 is concerned, the petitioner, instead of filing declarations in form 'C', collected 4% and paid the same as it is to the Department as evidenced from the payment of details enclosed in the typed set of papers. But the grievance of the petitioner, in the impugned orders, is that the respondent had wrongly stated that the petitioner has not made the payment of 4%, but only made the payment of 2%. On this basis, the respondent directed the petitioner to make payment of differential rate of tax between 2% and 4% notwithstanding the fact that the petitioner has made the entire payment of 4% on the sale value of Rs.1,66,83,342.00. The petitioner's further grievance is that the respondent has committed the very same mistake again insofar as the payment of tax is concerned for a sum of Rs.16,42,054.00 whereas the payment of Rs.8,04,042.00 alone has been taken into consideration.

3. In view of the above two errors committed by the respondent, rightly, a representation under Section 84 of the Tamil Nadu Value Added Tax Act [hereinafter referred to as the Act] was submitted to the respondent on 25.03.2015 with a request to the respondent to re-do the assessment, after taking into account the details of payment as well as the declarations in form 'C' and form 'F'. The petitioner has also enclosed detailed statement showing proof of payment of tax and the declarations number and dates along with his representation dated 25.03.2015. But till date, there was no response. Therefore, the petitioner has come to this Court seeking to quash the impugned orders passed by the respondent with a consequential direction to the respondent to pass order afresh as to the representation dated 25.03.2015 submitted under Section 84 of the Act.

4. Mr.S.Kanmani Annamalai, learned Additional Government Pleader (T) takes notice for the respondent.

5. As the petitioner has submitted a representation under Section 84 of the Act on 25.03.2015 indicating certain infirmities committed by the Assessing Officer stating that in the order of assessment, the respondent has wrongly stated that the petitioner has not made payment of 4%, but only made payment of 2%. In all fairness, the Assessing Officer should have considered the representation filed under Section 84 of the Act. As he did not do so, this Court directs the respondent to consider the said representation dated 25.03.2015 submitted by the petitioner under Section 84 of the Act, on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order. It is needless to mention that till then the impugned orders shall be kept in abeyance.

6. With the above direction, both these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

Jrl

To

The Assistant Commissioner (CT),
Royapettah-I Assessment Circle,
Chennai-28.

1 CC to Mr.J.Adithya Reddy, Advocate SR.No. 29760

1 CC to the Government Pleader, SR.No. 29785

W.P.Nos.16788 & 16789/2015

GGK (CO)
PSI (24.09.2015)