IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.07.2015

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.20410 of 2015
and
M.P.Nos.1 and 2 of 2015

M/s.New Cauvery Chemicals (Defunct)
rep. by its Partner S.S.Kumar,
No.38, Bhavani Main Road,
B.P.Agraharam,
Erode-638 005,
Erode District. ... Petitioner

Versus

Assistant Commissioner (CT),
Periya Agraharam Assessment Circle,
Erode, Erode District. ... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in his impugned proceedings made in TIN No.33903075418/2012-13 dated 18.12.2014 quash the same as illegal and contrary to the scheme of the Act and further direct the respondent to do reassessment for the year 2012-13 under TNVAT Act, 2006 under the provisions of Section 22(6)(a) of the Act as per the reply made by the petitioner dated 29.12.2014.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mr.ANR.Jayapratap,
Government Advocate (T)

O R D E R

This Writ Petition has been filed, challenging the proceedings of the respondent in TIN No.33903075418/2012-13 dated 18.12.2014 and further direct the respondent to do reassessment for the year 2012-13 under the provisions of Section 22(6)(a) of the Tamil Nadu Value Added Tax Act, 2006, as per the reply made by the petitioner dated 29.12.2014.

2. The learned Counsel for the petitioner would submit that the petitioner was dealing in Tanning Chemicals at Erode and he is an assessee on the file of the Assistant Commissioner (CT), Periya Agraharam Assessment Circle, Erode. While so, the respondent issued a notice dated 08.11.2014 in TIN No. 33903075418 for the assessment

year 2012-2013 under Section 21 of the TNVAT Act, 2006. The petitioner was unable to file any reply/objections for the same due to his business loss and some domestic problems. That apart, he left Chennai in connection with his job. Therefore, he was not fully unaware of the transactions. Since no reply/objection was received from the petitioner, the respondent has passed the impugned assessment order for the year 2012-2013 fixing the tax payable by the petitioner at Rs.9,65,121/- with a penalty due at the rate of 150%, which comes to Rs.14,47,681/-. The learned Counsel for the petitioner would further submit that after coming to know about the impugned assessment order, the petitioner has filed an application on 29.12.2014 under Section 22(6) of the Act by giving explanation along with payment of Rs.1,40,416/- towards tax together with interest. Therefore, the learned Counsel would contend that the petitioner has complied with the condition enumerated under Section 22(6) of the Act for reassessment. But the respondent did not pass any order based on the representation of the petitioner dated 29.12.2014, though he has got powers conferred upon him under Section 22(6)(a) of the TNVAT Act, 2006. Therefore, the learned Counsel for the petitioner seeks to quash the impugned order.

3. The learned Government Advocate appearing for the respondent would fairly admit that the petitioner has complied with Section 22 (6) of the TNVAT Act, 2006 for reassessment of the tax liability for the assessment year 2012-2013 within 30 days from the date of receipt of the assessment notice and has also paid the admitted tax liability with interest which comes to Rs.1,40,416/-. He would further submit that now, it is for the respondent to consider the reply/objections given by the petitioner as per law.

4. Recording the submissions made by the learned Government Advocate (T) appearing for the respondent, this Court finds no embargo to direct the respondent to consider the case of the petitioner for reassessment in terms of Section 22(6)(a) of the Act on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this Order. It is needless to mention that the respondent shall not proceed with recovery pursuant to the assessment order till his application dated 29.12.2014 filed under Section 22(6) of the TNVAT Act is disposed of.

5. With the above observation, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

Assistant Commissioner (CT),
Periya Agraharam Assessment Circle,
Erode, Erode District.

+1cc to Mr.R.Hemalatha, Advocate, S.R.No.34510
+1cc to the Special Government Pleader(Taxes), S.R.No.34771

W.P.No.20410 of 2015

SV(CO)
CA(22/07/2015)