IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.NO.20658 OF 2015
AND
M.P.NOS.1 and 2 OF 2015

M/s.Sri Neelavani Amman Agro,
rep.by its Proprietrix - S.Thirupurasundari,
No.40, Bazaar Styreet,
Thellar,
Vandavasi Taluk,
Tiruvannamalai District. ...Petitioner

Vs.

The Deputy Commercial Tax Officer,
Vandavasi,
Tiruvannamalai District. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of Certiorari to call for the records on the file of the respondent in his impugned proceedings made in TIN: 33444602548/2013-14 dated 10.02.2015, quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mr. S.Kanmani Annamalai,
Addl.Govt.Pleader (Taxes)

ORDER

This writ petition has been filed by M/s.Sri Neelavani Amman Agro represented by its Proprietrix S.Thirupurasundari challenging the impugned order passed by the respondent in TIN: 33444602548/2013-14 dated 10.02.2015 on the ground that the respondent has committed serious error in not giving the correct TIN Number to enable the petitioner to submit proper reply in response to the notice dated 19.1.2015 and he would further submit that the petitioner, in conformity with Section 19(10)(a) of TN VAT Act, 2006 read with Rule 10(2) of TN VAT Rules, 2007, is in possession of all the documents in respect of each and every transaction of business carried on by them and claiming input tax credit in accordance with Section 19(11) of TN VAT Act, 2006. As the respondent has not provided the correct TIN Number to the petitioner and only furnished 7 digit TIN number, the petitioner could not submit any reply. In such circumstances, the respondent has wrongly passed the impugned order.

2. Learned counsel appearing for the petitioner would further submit that the petitioner, being a dealer and assessee on the file of Deputy Commercial Tax Officer, Vandavasi with TIN No.33444602548, received a notice issued in TIN No.3363430 stating that on verification made through Department Website, the petitioner has wrongly claimed availment of Input Tax Credit and on that basis, the respondent asked the petitioner to pay the difference amount within fifteen days. According to the petitioner, since the TIN number was not properly given in the said notice, he could not proceed further by submitting reply.

3. In such circumstances, the petitioner ought to have approached the respondent to furnish the correct TIN number. Had there been any effort on the part of the petitioner, perhaps, the respondent would have certainly considered the same. Be that as it may, when the respondent issued notice dated 19.1.2015 with the proposal indicating the wrong availment of input tax credit, the respondent has committed a mistake by furnishing 7 digit TIN number to the petitioner. Therefore, it became impossible for the petitioner to ascertain the names of the dealers and submit reply. Finding prima facie that there is an error committed by the respondent in not furnishing the correct TIN Number in the notice issued to the petitioner, as admittedly 7 digit TIN Number (3363430) is mentioned in the notice, the impugned order is liable to be set aside.

4. Accordingly, the impugned order is set aside and the matter is remanded back to the respondent for consideration and the respondent shall furnish the correct 11 digit TIN number to the partitioner and thereafter consider the case of the petitioner afresh and pass orders on merits and in accordance with law. Needless to mention that after furnishing the correct TIN number by the respondent, the petitioner shall file a reply within two weeks thereafter. Subsequently, it is for the respondent to pass appropriate order on merits and in accordance with law.

5. The writ petition is allowed accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

The Deputy Commercial Tax Officer,
Vandavasi,
Tiruvannamalai District.

W.P.No.20658 of 2015

MG (CO)
PSI (05.08.2015)