IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2015

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.21546 of 2015
and M.P.No.1 of 2015

M/s. S.A.Abdul Azeez Co. [Petitioner]
Rep. by its Partner Chunnambu Oodai
Ramanathapuram Pudur (PO) Erode.

Vs

The Assistant Commissioner(CT)
Periya Agraharam Assessment Circle Erode.
[Respondent]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to Call for the records of the respondent in TIN No.33303075360/2012-13 and quash the order dated 08.06.2015 passed therein in so far as it relates to the issue of levy of purchase tax on alleged purchase turnover omission and reversal of Input Tax Credit on alleged manufacturing loss.

For petitioner : Mr.R.L.Ramani, Senior Counsel
for Mr.B.Raveendran
For respondent : Mr.V.Haribabu, AGP(T)

O R D E R

Heard the learned Senior counsel for the petitioner and Mr.V.Haribabu, learned Special Government Pleader, who took notice for the respondent and with their consent, the main writ petition itself is taken up for disposal.

2. This writ petition has been filed by M/s. S.A.Abdul Azeez Co. represented by its Partner, Chunnambu Oodai, challenging the impugned order dated 08.06.2015, passed by the Assistant Commissioner (CT), Periya Agraharam Assessment Circle, Erode, in TIN No.33303075360/2012-13, raising various grounds.

3. One of the points raised by Mr.R.L.Ramani, learned Senior Counsel for the petitioner is related to the issue decided by this Court in a batch of writ petitions in W.P.Nos.13901 of 2013 etc. dated 26.11.2014. That apart, according to him, without giving notice, violating the principles of natural justice, the impugned order has been passed. Therefore, this Court, by exercising its power

under Article 226 of the Constitution of India, should interfere with the impugned order.

4. Mr.V.Haribabu, learned Additional Government Pleader (Taxes) appearing for the respondent drawing the attention of this Court to the inner page 5 of the order dated 29.12.2014 submitted that notice was issued inviting objections if any for the proposals for the revision of assessment for the year 2012-13 under Section 22(4) of the TNVAT Act, but, the petitioner filed adjournment petition only and he has not filed any objection. Therefore, it is not open to the learned Senior Counsel for the petitioner to say that no notice was given.

5. Be that as it may, this Court is not inclined to entertain the counter claim made by the petitioner, as the same has to be gone into by the appellate authority. Therefore, while dismissing the writ petition, this Court, without going into the merits of the matter, grants four weeks' time to the petitioner from the date of receipt of a copy of this order to file an appeal against the impugned order.

6. At this juncture, learned Senior Counsel for the petitioner submitted that the application filed by the petitioner for reopening the assessment is also pending for consideration. This Court makes it clear that it is for the authority concerned to consider the same issue.

No costs. Connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To

The Assistant Commissioner(CT)
Periya Agraharam Assessment Circle Erode.

1 cc to Spl.Government Pleader(Taxes).Sr.No.36487
1 cc to Mr.B.Raveendran, Advocate Sr.No.36574

W.P.No.21546 of 2015

ppa(co)
pmk.5.8.2015