IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2015

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.21885 of 2015
and M.P.Nos.1 & 2 of 2015

M/s. Sankar Albums [Petitioner]
Rep. by its Prop.
T.Sivachenniappa
9/1 Kumaran Street
Ulavan Nagar Erode.

Vs

The Assistant Commissioner(CT)
Erode Rural 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 his proceedings in TIN 33472902849/11-12 dated 29.6.15 and quash the same as illegal.

For petitioner : Mr.S.Ramanathan
For respondent : Mr.S.Kanmani Annamalai, AGP(T)

O R D E R

Heard the learned counsel for the petitioner and Mr.S.Kanmani Annamalai, 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 challenging the impugned order dated 29.06.2015 passed by the Assistant Commissioner(CT), Erode, in TIN 33472902849/11-12, raising various contentious issues.

3. Learned counsel appearing for the petitioner, indicating the infirmities in the impugned order submitted that the petitioners are the dealers in photographic colour paper and effects purchase from M/s Kemtec India Photographic & Co. Pvt. Ltd., Chennai and subsequently effects resale. However, the respondent has come to the conclusion that the commodities sold by the dealer/petitioner are unclassified items falling under entry 69 of Part C of the I Schedule

of the TNVAT Act and therefore, taxable at 14.5%. The grievance of the petitioner, according to the learned counsel for the petitioner is that although the petitioner has given a neat and very clear detailed objection stating that the commodities sold by them are not unclassified items and they fall under Entry 96 of Part B of the I Schedule and taxable only at 5%, the same has been wrongly ignored. That apart, according to him, the respondent has also brushed aside the proceedings of the Commissioner of Commercial Taxes in Lr.VAT Cell/21313/06 (VCC No.443) dated 10.05.2007, Lr.VAT Cell/44136/2007 (VCC No.1124) dated 28.08.2007, which states that Photographic Colour paper and chemicals are taxable at 4% under Entry 96 Part B of the First Schedule to TNVAT Act.

4. Considering the submissions made by the learned counsel for the petitioner, this Court is of the view that the issues raised by the petitioner are to be gone into only by the appellate authority. Hence, this Court is not inclined to entertain the writ petition.

5. In view of the same, without going into the merits of the matter, this writ petition is dismissed. However, liberty is given to the petitioner to file an appeal within a period of two weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner(CT)
Erode Rural Circle, Erode.

+1cc to Mr.S. Ramanathan, Advocate, S.R.No.36984
+1cc to the Government Pleader, S.R.No.37246

NM(CO)
EU(17/08/2015)