IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.32583 of 2015

HITECH PLAST LIMITED
rep by its Authorised Signatory
K. MASAN
F-16, Sipcot Industrial Part-4
Sriperambadur,
Chennai-605 102

.... Petitioner

Vs

The Assistant Commissioner (CT),
Sriperambadur Assessment Circle,
No.4/109, Varadhajapuram,
Chennai-600 123

... Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified Mandamus to call for the impugned proceedings of the respondent passed in TIN/33031663043/2013-2014 dated 30.12.2014 and quash the same and further direct the respondent complete the assessment in accordance with law.

For Petitioner : Mr.N. Murali
For Respondents : Mr.V.Haribabu,
Addl. Govt. Pleader (T)

ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes), who took notice for the respondents and with their consent, the main writ petition is taken up for disposal.

2. Challenging the order of the respondent in TIN/33031663043/2013-2014 dated 30.12.2014, the petitioner has filed the above writ petition.

3. The case of the petitioner is that the petitioner is a Public Limited Company and incorporated under the Companies Act, 1956 and is an assessee under the Tamil Nadu Value Added Tax Act 2006 and the petitioner is the manufacturer of Plastic container and lids and having manufacturing unit at Sriperambadur, Puducherry and other places in India.

4. It is the further case of the petitioner that they had effected stock transfer of goods to their own manufacturing unit at Puducehrry outside the State. The provisions of Sec.70 of TNVAT Act stipulates that for the goods mentioned in VI Schedule to TNVAT Act, the E-Transit Pass is required for movement of goods from this State to another State under the Act. The E-Transit Pass must be generated in the system in the prescribed form by the petitioner. Sec.70(2)(b) of TNVAT Act further requires that Seller or Consignor shall deliver or cause to be delivered such transit pass to the Officer in charge at the last check post before the exit of goods vehicles from the State.

5. It is also the case of the petitioner that they generated the transit pass through online for the purpose of stock transfer of raw materials to Puducherry. The goods were sent along with Transit pass were delivered and the petitioner was complying with the provisions of Sec.70 of TNVAT Act 2006. In respect of the impugned stock transfer of goods, the generation of transit pass were made and the transporter also handed over to the check post authorities, but the acknowledgement was not obtained by the transporter form the check post authorities. The petitioner submit that they have all the evidence to substantiate that the impugned consignments were not sold within the State and the same was used by their Puducherry Unit.

6. Against the order challenged before this Court, the learned counsel for the petitioner now wants to file revision before the Revisional Authority. It is also brought to the notice of this Court that after generating e-transit pass through on line, the same was handed over to the Check Post Authorities, but no acknowledgement was given. Simply for non-furnishing of acknowledgement, the impugned order came to be passed.

7. Since the matter, in dispute, relates to the filing of transit pass, the petitioner is permitted to file a revision before the revisional authority within a period of two weeks from the date of receipt of copy of this order. On such filing, the same shall be entertained without raising any issue with regard to limitation.

9. The petitioner is also permitted to move Stay petition before the revisional authority and pending disposal of the same, there shall not be any recovery.

10. With the above direction, the the writ petition is disposed of. No costs. Consequently, the connected MP is closed.

-s/d-
Assistant Registrar(CSIV)
dt:15/10/2015

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner (CT),
Sriperambadur Assessment Circle,
No.4/109, Varadhajapuram,
Chennai-600 123

+1 cc to Mr.N.Murali, Advocate sr.56056
+1 cc to the Special Government Pleader(Taxes)
sr.56695

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