IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 26.2.2015.

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.362 of 2015
and
M.P.Nos.1 and 2 of 2015

M/s.Om Sai Intex Pvt.Ltd
Rep by its Director - V.Venkatesh
No.140 Perumpulimedu Village
Cheyyar Taluk
Tiruvannamalai District 604 410. Petitioner

vs.

The Commercial Tax Officer
Vandavasi Tiruvannamalai District Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records on the file of the respondent in its impugned proceedings made in TIN No.33494602472/2013-2014 dated 21.11.2014 and quash the same which is contrary to the provisions of Section 19(10)(a) of TNVAT Act 2006 and Rule 10(2) of TNVAT Rules 2007.

For Petitioner : Mr.S.Rajasekar

For Respondents: Mr.V.Haribabu, AGP(T)

ORDER

Petitioner has come forward with the aforesaid prayer.

2. The petitioner Company is an Interior Decorator assessed by the respondent. The petitioner appears to have filed monthly Returns in Form I for the assessment year 2013-14 giving a total taxable turnover under the Tamil Nadu Value Added Tax Act, 2006. The petitioner submitted that on 19.6.2014, the respondent issued a pre-assessment notice stating that on verification made through the Department Website, it is revealed that the petitioner had claimed a wrong availment of ITC and therefore, requested to pay the difference amount immediately on receipt of the notice. The petitioner was asked to file file their objections. The petitioner, on 29.9.2014, filed their objections stating that their claim of ITC is in accordance with Rules 10(2) of TNVAT Rules, 2007 and section 19(10)

of TN VAT Act, 2006. Not satisfied with the objections, by order dated 21.11.2014, the impugned orders have been passed by the respondent under section 27 of the Act.

3. From the narration of events above, it is clear that it is a case for rectification and the petitioner will have to file a petition under section 84 of the Act and the writ petition is not a remedy. The contention of the petitioner that section 84 can be used only for correcting arithmetical errors alone is not correct and if there are any errors apparent on the fact of the record, the authority concerned is empowered to rectify the same.

4. In view of the above, I am not inclined to grant the relief sought for by the petitioner and it is open to the petitioner to approach the authority concerned by filing a petition under section 84, if so advised. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssk.

To

The Commercial Tax Officer
Vandavasi Tiruvannamalai District

+ 1 cc to M/s. R. Hemalatha, Advocate Sr.10897
+ 1 cc to Special Government pleader Sr.10994

W.P.No.362 of 2015

CA(CO)
Eu 21.03.15