IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.02.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.4331 of 2015

Tvl.Nirmal Pumps (Pvt.) Ltd.,
rep. by its Director G.Nirmala .. Petitioner

Vs.

The Assistant Commissioner (CT),
Peelamedu (North) Circle, Coimbatore. .. Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the file of the respondent in TIN.33052120969/2011-12 dated 31.12.2014 and to quash the same as being contrary to the principle laid down by this Court in the recent judgment in W.P. No.9265 of 2013 dated 06.11.2014 (Infinity Wholesale Ltd., vs. Assistant Commissioner (CT), Koyambedu Assessment Circle, Chennai-107) and to further direct the respondent to pass order afresh in accordance with the representation dated 19.01.2015 made by the petitioner under Section 84 of the TNVAT Act 2006.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.A.N.R.Jayapratap
Addl.Govt.Pleader (T)

O R D E R

The Writ Petitioner has come forward with the aforesaid prayer, challenging the impugned order passed by the respondent in TIN.33052120969/2011-12 dated 31.12.2014 and to quash the same.

2.The case of the petitioner is that payment made by the petitioner have not been taken into account by the respondent in the assessment proceedings, even after the repeated requests made by the petitioner and that the petitioner has filed an application under Section 84 of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter called as 'the act') and that no order has been passed. The petitioner has challenged the impugned order dated 31.12.2014 on the ground that the amount mentioned supra has not been taken into account and that no personal hearing has been given to the petitioner.

3.Learned Additional Government Pleader appearing for the respondent submitted that the petitioner has made an application under Section 84 of the Act and the same is under consideration. That being the case, the petitioner cannot seek for a prayer to quash the order dated 31.12.2014 and he cannot make an application under Section 84 of the Act. Learned Additional Government Pleader for the respondent further contended that the petitioner wants to set the clock back and wants to give one more opportunity before the Original Authority.

4.Knowing about the order passed, the petitioner has chosen to file an application under Section 84 of the Act and the same is pending. The only grievance of the petitioner is that the petitioner having paid the entire amount, the Bank account has been attached. Without going into the merits of the matter and without this being a precedent, I direct the authority to consider the case of the petitioner. As the petitioner is willing to pay 20% of the tax amount, I direct the authority to pass orders in the petition filed under Section 84 of the Act, within a period of four weeks from the date of personal hearing and the petitioner shall appear for personal hearing on 16.03.2015 before the authority. In case, the petitioner fails to avail the opportunity of personal hearing, for whatsoever the reason, it is open to the respondent to pass orders on merits and in accordance with law. On payment of the agreed amount, to be paid by the petitioner, the bank account of the petitioner, attachment may be lifted.

5.Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected M.P. is closed.

6.Registry is directed to return the originals, as the petitioner has filed the copy of the order in the typed set of papers.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

vga

To

The Assistant Commissioner (CT),
Peelamedu (North) Circle, Coimbatore.

1 cc to Spl.Government pleader (Taxes), Sr. 9537
1 cc to Mr.R. Senniappan, Advocate, Sr. 9513

W.P.No.4331 of 2015

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