IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 17.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. No.6130 of 2015

M/s. Spectrum Decors (Chennai) Private Ltd
rep by its Managing Director R.Jyothi Prakash
No.1. Chitra Enclave
SBI Officers Colony I main road
Arumbakkam, Chennai-600 106 .. Petitioner

vs

The Assistant Commissioner (CT) (FAC)
Arumbakkam Assessment Circle, NO.59, Taylors Road,
Chennai-600 010 ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records of the respondent in his proceeding in TIN/3371146134/2009-10 and quash the assessment order dated 09.02.2015.

For Petitioners : Mr.P.V.Sudakar

For Respondent : Mr.Manoharan Sundaram, AGP(T)

ORDER

The petitioner has come forward with the aforesaid prayer.

2. The petitioner is a work contractor engaged in the business of interior decoration and is registered on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the 'Act'). Enforcement wing inspected the petitioner's premises and issued a pre-assessment notice dated 10.10.2014 stating that the petitioner had effected purchases from other States and proposed to disallow the benefit of payment of taxes at compounded rates under Section 6(1) of the Act on the ground that the petitioner had effected inter-state purchases during the assessment year 2009-10. Petitioner filed its objections on 12.11.2014. By an order dated, 09.02.2015, respondent though accepted the contention of the petitioner that all the purchases were effected locally, has still proceeded to confirm its proposal on a new reasoning that the petitioner has not filed any documentary evidence. Against which the present petition is filed.

3. Heard both sides.

4. Learned counsel for the petitioner submitted that petitioner received the pre-assessment notice dated 10.10.2014 stating that the petitioner has purchased goods from outside the State and that as per the Act the dealer who opts to pay tax under compounding rate and filing return under Form L, should have not made the purchases either from outside the country. Petitioner on 12.11.2014 submitted a detailed reply where it has been stated that for the assessment year 2009-10 they have not effected any inter-state purchases. All the purchases have been effect from local registered dealers upon sufferance of tax. They have also enclosed the purchase list with invoice copies for 2009-10. By impugned order dated 09.02.2015 the authority considered the objections of the petitioner and observed as follows:

> "..Though the dealer had not purchased goods from outside the State, which is one of the conditions prescribed under Section 6, their claim that they are entitled to the benefit of payment of tax under compounding rate, for which they had not produced any documentary evidence of filing option letter before the assessing authority, which is the mandatory condition as prescribed under Section 6 of the TNVAT Act, 2006 does not hold good. They have not filed the evidence of filing option letter, neither to the Enforcement Wing at the time of inspection nor to the Assessing Officer at the time of filing their objections. It shows that they had not fulfilled their mandatory requirement. Hence, the dealer is not eligible to file monthly returns under Form "L" but has to file under form "I" only. Therefore, their request to drop the proposal is not substantiated with evidence and is overruled. "

It is evident from the above that the petitioner has not purchased the goods from other States and there is no need to file separate application under Section 6 of the Act. Admittedly, the respondent has accepted that the petitioner has not made any purchase of the goods outside the country. The impugned order dated 09.02.2015 is set aside. Writ petition is allowed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kpr

To
The Assistant Commissioner (CT) (FAC)
Arumbakkam Assessment Circle, NO.59, Taylors Road,
Chennai-600 010

1 cc to Spl.Government Pleader,Sr.No15059
1 cc to Mr.P.V.Sudakar ,Advocate, SR.No.15012

W.P.No.6130 of 2015

sai(co)
pmk.10.4.2015