

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2015

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.7922 of 2015

&

M.P.Nos. 1 & 2 of 2015

M/s.Shree NM Electricals Ltd.
Repd. by its Branch in Charge,
146, Annapillai Street, 1st Floor,
Chennai-600 001.

...Petitioner

vs.

1.The Assistant Commissioner (CT) (FAC),
NSC Bose Road Circle,
Wavoo Mansion,
No.48/39 Rajaji Salai,
Chennai-600 001.

2.The Branch Manager
HDFC Bank,
Sowcarpet Branch,
Chennai-600001.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the impugned proceeding of the first respondent in CST/94997/2010-2011, dated 23.12.2014 and quash the same as passed contrary to the provisions of the Central Sales Tax Act, 2006 and the Tamil Nadu Value Added Tax Act, 2006 and also without granting reasonable opportunity to the petitioner and to further direct the first respondent to pass a fresh assessment order after considering the applications dated 20.01.2015, 02.03.2015 and 03.03.2015 filed by the petitioner under Section 84 of the TNVAT Act for the assessment year CST 2010-2011.

For Petitioner : Mr.P.Rajkumar

For Respondents : Mr.Cibi vishnu
Addl. Govt. Pleader (Taxes) -
for R1

ORDER

Heard Mr.P.Rajkumar, learned counsel appearing for the petitioner and Mr.Cibi vishnu, learned Additional Government (Taxes) Pleader appearing for the first respondent.

2. The above writ petition has been filed by the petitioner to issue a writ of Certiorari Mandamus to call for the impugned proceeding of the first respondent dated 23.12.2014, to quash the same as passed contrary to the provisions of the Central Sales Tax Act, 2006 and the Tamil Nadu Value Added Tax Act, 2006 and also without granting reasonable opportunity to the petitioner and to further direct the first respondent to pass a fresh assessment order after considering the applications dated 20.01.2015, 02.03.2015 and 03.03.2015 filed by him under Section 84 of the TNVAT Act for the assessment year CST 2010-2011.

3. According to the petitioner, the first respondent passed the impugned order without granting reasonable opportunity to the petitioner to procure C-Forms for the inter-state sales and transit sales and Form-F declaration forms for the stock transfer effected by the petitioner and file it before him. Further, in the impugned order, the first respondent has levied tax at the rate of 12.5% on the sales turnover of industrial cables, when it is clear from Entry 66 of Part B of the First Schedule to the TNVAT Act that the industrial cables are taxable only at the rate of 4%. Therefore, even in the absence of C-Forms, the first the first respondent should have levied tax only at the rate of 4% and not at the rate of 12.5%.

4. The learned counsel for the petitioner submitted that this court in similar nature of matter set aside the order of the respondent and further directed the respondent to consider the case based on the C-Forms produced by the petitioner. The learned counsel has also produced the copy of the orders passed in W.P.Nos. 574 to 576 of 2013, dated 10.1.2013 and W.P. Nos.27650 ad 27651 of 2012, dated 6.11.2012.

5. Following the orders passed in W.P.Nos. 574 to 576 of 2013 and .27650 and 27651 of 2012, this court passes the following order:-

The impugned order of the first respondent dated 23.12.2014 in CST/94997/2010-2011 is set aside. The

petitioner is also directed to file the C-Forms, D-Forms, and E1-Forms before the respondent within a period of one week from the date of receipt of a copy of this order and on receipt of the said Forms to be filed by the petitioner, the first respondent shall consider the same and pass appropriate assessment orders, in respect of the assessment years CST 2010-2011 on merits and in accordance with law, as expeditiously as possible.

With the above observations, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Rj

To

- 1.The Assistant Commissioner (CT) (FAC),
NSC Bose Road Circle,
Wavoo Mansion,
No.48/39 Rajaji Salai,
Chennai-600 001.
- 2.The Branch Manager
HDFC Bank,
Sowcarpet Branch,
Chennai-600001.

1 CC to Mr.P.Rajkumar, Advocate SR.No.15975

1 CC to the Spl.Government Pleader, SR.No. 15972

MG (CO)
PSI (23.03.2015)

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