IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 28.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.1223 of 2016 &

W.M.P.No.960 of 2016

Accentiv India Pvt.Limited
rep. By its Head-Finance Shri A.Jagadeesan
[PETITIONER]

Vs

The Assistant Commissioner (CT)
Villivakkam Assessment Circle
No.15/16, Maaligai Avenue,
200 Feet Road, Kolathur,
Chennai 600 099.
[RESPONDENT]

PRAYER:

Petition filed under Article 226 of The Constitution of India praying for issuance of writ of certiorari to call for the records relating to the Assessment Order CST/873635/2012-2013 dated 30.11.2015, passed by the respondent and quash the same as arbitrary and illegal.

For Petitioner : Mr.Joseph Prabakar

For Respondents : Mr.Manokaran Sundaram
Addl.Government Pleader

****

O R D E R

Heard Mr.Joseph Prabhakar, learned Counsel appearing for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader appearing on behalf of the respondent and with the consent of learned counsel appearing on either side, the writ petition is taken up for final disposal.

2.The petitioner has filed this writ petition praying for issuance of a writ of certiorari to quash the order passed by the respondent dated 30.11.2015, which is an order of assessment made on the petitioner under the provisions of the Central Sales Tax Act for the year 2012-13.

3.The petitioner is now engaged in the business of sale of Gift Vouchers. In respect of certain transactions where sale were effected overseas, the petitioner claimed exemption, by stating that those sales were export sale. The respondent on scrutiny of the assessment found certain discrepancies and a notice dated 30.09.2015 was issued proposing to revise total and taxable turnover. The petitioner submitted their objections and an opportunity of personal hearing was granted. The petitioner though appeared for personal hearing, did not produce certain documents and therefore the Assessing Officer has confirmed the proposal, after giving credit to the sale turnover of ineligible exemption.

4.From the impugned order of assessment, it is seen that the petitioner did not file any documentary evidence such as the copy of the gift voucher, sale account of the products, audited balance sheet, profit and loss account and they did not even mention as to what is the method of sale of gift vouchers, etc. Therefore, prima facie, the impugned order passed by the respondent is justifiable, since the petitioner failed to produce relevant details inspite of specifically called for.

5.The learned counsel for the petitioner submitted that an opportunity may be granted to the petitioner to produce the documents as called for and the respondent may be directed to look into those documents and take a fresh decision.

6.In the light of the fact that the petitioner would accept that they have documents in their end, but due to error they have not produced the same, this Court is of the view that one more opportunity may be granted to the petitioner by granting liberty to the petitioner to file a Petition under section 84 of the TNVAT Act, so that the respondent can consider the same as a Review Petition and rectify the defects that may arise, on a perusal of the documents to be filed by the petitioner.

7.In the light of the above, the Writ Petition is disposed of by directing to the petitioner to file a Petition under section 84 of the Act, within a period of fifteen days from the date of receipt of a copy of this order, along with the copies of all documents in support of their stand and as already called for by the respondent, appear in person before the respondent and submit the same. The respondent after verifying the same, shall pass appropriate orders on merits and in accordance with law, within a period of fifteen days thereafter. Till such orders are passed, the impugned order of assessment shall be kept in abeyance. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

r p a

To

The Assistant Commissioner (CT)
Villivakkam Assessment Circle
No.15/16, Maaligai Avenue,
200 Feet Road, Kolathur,
Chennai 600 099.

+1 cc to Mr.Joseph Prabakar Advocate sr.36123
+1 cc to Special Government Pleader(T) sr.36188

W.P.No.1223 of 2016

aa14/07/2016