IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.12967 of 2015
&
M.P.No.1 of 2015

M/s.Run Plast
Represented by its Partner D.Arvind Jain
5, Diamond Street, NSC Bose Nagar
Porur, Chennai - 116 ...Petitioner

Vs.

The Assistant Commissioner (CT)
Ayyappathangal Assessment Circle
5/44, Valluvar Salai, Ramapuram
Chennai - 89. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records of the respondent in TIN 33581389831/2012-13 dated 16.03.2015 and quash the same.

For Petitioner : Mr.R.Kumar

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

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O R D E R

The petitioner, who is a registered dealer carrying on business in plastics, has filed this writ petition challenging the order passed by the respondent, which is an assessment order under the provisions of Tamil Nadu Value Added Tax Act, 2006 for the Assessment Year 2012-13.

2. The allegations against the petitioner is that he has made certain interstate purchases from Gujarat and not accounted the same for the year 2012-13. In the show-cause notice, the respondent has furnished the Form Number, date, name of the dealer in Gujarat, Commodity and the amount. The petitioner has submitted a reply stating that his TIN Number has been misused

and he has lodged a complaint before the police and requested the Assessing Officer to handover copies of the bills in which purchases are said to have been effected. The Assessing Officer received the reply sent by the petitioner. But, the Assessing Officer, while passing the order of Assessment, has not made any averment as to the request made by the petitioner for furnishing the copies of the bills. With regard to the criminal complaint, the officer says that the petitioner has not produced the copy of the FIR till the date of the order, namely 16.03.2015.

3. Learned counsel appearing for the petitioner submits that on 20.03.2015, when the order was served on the petitioner in person, he has handed over the copy of the FIR and the matter is under investigation.

4. In any event, the entire matter has been initiated based on a web report, which has been downloaded by the Assessing Officer from the official website of the authorities in Gujarat. In my opinion, this by itself cannot be a basis for the petitioner to pay the tax and penalty and the Assessing Officer is bound to produce documents to substantiate the case as culled out from the web page. The specific request made by the petitioner for supply of copies of bills has not been considered. Hence, for all the above reasons, the impugned order cannot be given effect to at this stage. However, for the above reasons, this Court is also not inclined to quash the impugned proceedings, but there will be a direction to keep the impugned proceedings in abeyance for compliance of the following;

The respondent Assessing Officer shall furnish the copies of the bills, which are available with him to support the stand taken by him in the impugned order as well as in the show-cause notice issued earlier and the same shall be furnished within a period of eight weeks from the date of receipt of a copy of this order. Parallelly, the petitioner should pursue the criminal complaint and report the outcome to the Assessing Officer. After the receipt of the copies of the bills, as sought for by the petitioner and subject to the outcome of the criminal case, the petitioner is at liberty to submit his objection, which shall be decided on merits.

The writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

gpa

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner
Ayyappathangal Assessment Circle
5/44, Valluvar Salai, Ramapuram
Chennai - 89.

+ 1 cc to Mr.R.Kumar, Advocate Sr 30079

+ 1 cc to The Spl.Govt.Pleader (Taxes),
High Court, Mds-104. Sr 29947

KR/15/6/16

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