IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.No.14835 of 2015 &
M.P.No.1 of 2015

Tvl.Indira Industries
Rep. by its Partner
P.Manikandan
3 SIDCO
Katpadi. ... Petitioner

Vs.

1. The Commercial Tax Officer
Gudiyatham (EAST) Assessment Circle
Gudiyatham

2. The Appellate Deputy Commissioner (CT)
C.T. Building
Vellore. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, Calling for the records on the files of the 2nd respondent in N.Dis.507/ 2015, dated 6.4.2015 and connected proceedings of the first respondent in CST 359464/2009-2010, dated 30.12.2014 and quash the same and further direct the first respondent to pass order afresh in accordance with law.

For Petitioner : Mr.R.Senniappan

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

ORDER

The petitioner has filed the above writ petition to issue a Writ of Certiorari to call for the records on the files of the second respondent in N.Dis.507/ 2015, dated 6.4.2015 and connected proceedings of the first respondent in CST 359464/2009-2010, dated 30.12.2014 and to quash the same and further direct the first respondent to pass order afresh in accordance with law.

2. It is the case of the petitioner that the second respondent had passed the impugned order dated 06.04.2015 without considering the order passed in the rectification application filed under section 84 of the Tamil Nadu Value Added Tax Act, 2006.

3. Mr.R.Senniappan, learned counsel appearing for the petitioner submitted that the original order merges with the order passed in the application filed under section 84 of the Act. However, the second respondent without considering the order passed under section 84 of the Act, passed the impugned order.

4. Mr.Kanmani Annamalai, learned Additional Government Pleader, appearing for the respondents submitted that since the original order merges with the order passed under section 84 of the Act, the second respondent may be directed to consider the same and decide the matter afresh.

5. Having regard to the submissions made by the learned counsel on either side, taking into consideration the fact that the second respondent has not taken into consideration the order passed under section 84 of the Act, the impugned order dated 06.04.2015 is liable to be set aside. Accordingly, the same is set aside and the matter is remanded back to the second respondent for fresh consideration. The second respondent is directed to entertain the appeal filed by the petitioner and decide the matter afresh, after giving an opportunity of personal hearing to the petitioner, on merits and in accordance with law, as expeditiously as possible, and in any event, not later than six weeks from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Rj

To

1. The Commercial Tax Officer
Gudiyatham (EAST) Assessment Circle
Gudiyatham

2. The Appellate Deputy Commissioner (CT)
C.T. Building
Vellore.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.9821
+1cc to the Special Government Pleader(T), S.R.No.10174

W.P.No.14835 of 2015
&
M.P.No.1 of 2015

VGI(CO)
CA(18/02/2016)