IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.1681 of 2016 and
W.M.P.No.1460 of 2016

M/s.Thangam Traders
rep by the Proprietor
No.684, M.T.H.Road,
Avadi, Chennai - 600 071. ... Petitioner

Vs.

The Commercial Tax Officer,
Avadi Assessment Circle,
Chennai - 600 054. ... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the respondent in his proceedings of the assessment order in TIN No.:33801300664/2013-14 dated 01.10.2015 and to quash the assessment proceedings as illegal and direct the respondent to pass fresh orders by following the principle laid down by the order of the Supreme Court reported in 109 STC 0439 (SC) after giving personal hearing.

For Petitioner: Mr.C.Baktha Siromoni
For Respondent: Mr.Manoharan Sundaram,
Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the records of the respondent in his proceedings of the assessment order dated 01.10.2015 and to quash the same and to direct the respondent to pass fresh orders after giving personal hearing.

2.It is the case of the petitioner that the respondent had levied the taxes by rejecting the sales made by the vendor to the petitioner during the year 2013-14. The respondent has considered the retrospective date of cancellation of registration of the seller and disallowed the Input Tax Credit for the year 2013-14. The actual date of cancellation of the registration of the seller M/s.Karnee Ispat Udyog, Chennai was 27.06.2014. Its registration certificate was cancelled retrospectively from 01.08.2012. The respondent has taken the actual effective date of cancellation of registration of the said vendor as 01.08.2012, even though the actual date of passing of cancellation of registration of the vendor was only on 27.06.2014. According to the learned counsel for the petitioner, such kind of cancellation of registration is bad in law.

3.Mr.Manoharan Sundaram, learned Additional Government Pleader (Tax) appearing for the respondent submitted that since the petitioner had not produced the necessary documents before the respondent, the respondent had no other option except to pass the order impugned in the Writ Petition. The learned Additional Government Pleader further submitted that an opportunity may be given to the petitioner to produce all the documents before the respondent.

4.The learned counsel for the petitioner submitted that the petitioner has filed an application under Section 84 of the TNVAT Act, which is pending before the respondent and also submitted that the respondent may be directed to dispose of the said application within a stipulated time.

5.Having regard to the submissions made by the learned counsel on either side, I direct the respondent to consider the application dated 29.12.2015 filed by the petitioner under Section 84 of the TNVAT Act, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order, after affording due opportunity of personal hearing to the petitioner.

6.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

va

To
The Commercial Tax Officer,
Avadi Assessment Circle,
Chennai - 600 054.

+1cc to M/s. C. Baktha Siromoni, Advocate, S.R.No.21734
+1cc to the Government Pleader, S.R.No.21560

SSK(CO)
EU(26/04/2016)