IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.30065 of 2015 &
M.P.Nos.1 and 2 of 2015

Tvl.Om Textiles,
No.2/647B, Venus Garden,
Periyandipalayam,
Tiruppur. .. Petitioner

Versus

1.The Assistant Commissioner (CT) (FAC),
Central II Circle,
Tiruppur.

2.United Bleachers Private Limited,
104-A, Reheja Centre,
1073/1074, Avinashi Road,
Coimbatore-641 018. .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for the records of the first respondent in order dated 04.03.2015 in TIN.33432465789/2010-11 and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mr.V.Haribabu
Additional Government Pleader

O R D E R

The petitioner, who is a registered dealer under the provisions of the Tamil Nadu Value Added Tax, 2006 (herein after referred to as the 'Act'), has filed this Writ Petition, challenging the order of assessment dated 04.03.2015, for the assessment year 2010-2011.

2. The petitioner's case is that they are work contractors for M/s.United Bleachers Private Limited and the Principal paid the entire tax liability and to the said effect, a letter was given on 02.12.2014. The petitioner produced this letter before their Assessing Officer, but, however, the same was not accepted by the Officer and the assessment has been framed stating that

the petitioner has to prove by documentary evidence that the tax has already been paid and there is no question of deduction of TDS at the petitioner's end. From the letter given by the petitioner's principal viz., United Bleachers Private Limited, dated 02.12.2014, it is seen that the letter is very vague and along with the letter they have enclosed their monthly return of October 2014, from which, it is not clear as to whether tax pertaining to the subject transaction has been remitted by M/s.United Bleachers Private Limited. Therefore, the petitioner has to necessarily prove to show that the tax has been paid and there is no requirement for the petitioner to effect TDS.

3. Faced with the said situation, the learned counsel for the petitioner submits that he would approach M/s.United Bleachers Private Limited and in turn, contact their Assessing Officer to file Arrear Form "S" and thereafter, approach the respondent, by filing a Revision under Section 84 of the Act. For this purpose, the petitioner requests reasonable time may be granted to them.

4. Considering the fact that this Writ Petition has been pending from 2015 onwards and an order of stay was also in force and till date no counter affidavit is filed, the petitioner is permitted to carry out the aforesaid exercise, within a period of six weeks from the date of receipt of a copy of this order and then approach the respondent, by way of Revision under Section 84 of the Act and till then, no coercive action shall be initiated against the petitioner for recovering the tax assessed in the impugned assessment order.

With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To
1.The Assistant Commissioner (CT) (FAC),
Central II Circle,
Tiruppur.

+1cc to the Special Government Pleader Sr.34773

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srg 04/07/2016