IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.36915 of 2015
and M.P.Nos.1 & 2 of 2015

M/s.Shri Indhira Cotton Mills Private Limited,
rep by its General Manager/Authorised Signatory
K.Selvarajan,
No.6, Jagampet Gardens,
Chitlapakkam Road, Hastinapuram,
Chrompet, Chennai – 600 044. ... Petitioner

Vs.

1.The Commercial Tax Officer,
Chrompet Assessment Circle,
Chennai – 600 044.

2.The Appellate Deputy Commissioner (East),
Greams Road, Chennai. ... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records comprised in impugned order in RC.836/2015 dated 16.07.2015 on the file of the 2nd respondent and quash the same with a direction to the 2nd respondent to dispose of the appeal on merit.

For Petitioner : Ms.P.M.Anuradha
For Respondents : Mr.Kanmani Annamalai,
Additional Government Pleader

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 comprised in impugned order in RC.836/2015 dated 16.07.2015 on the file of the 2nd respondent and quash the same with a direction to the 2nd respondent to dispose of the appeal on merit.

2.According to the petitioner, the impugned order refusing to entertain the appeal against the order of rectification is contrary to the provisions of Section 84 (5) of the TNVAT Act, which expressly provides that the provision relating to appeal and revision would apply to rectification proceeding and has thereby denied the petitioner's right to appeal.

3.Mr.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondents submitted that the impugned order passed by the 2nd respondent dated 16.07.2015 may be set aside and the 2nd respondent may be directed to consider the appeal on merits.

4.Having regard to the submissions made by the learned counsel on either side, since the refusal to entertain the appeal as against the order of rectification is contrary to the provisions of TNVAT Act, I am of the view that the impugned order passed by the 2nd respondent is liable to be set aside and the 2nd respondent shall hear the matter afresh and decide the same on merits and in accordance with law. Accordingly, the impugned order dated 16.07.2015 is set aside. The 2nd respondent is directed to entertain the appeal filed by the petitioner and pass orders on merits and in accordance with law.

5.With this observation, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar(CSV)

True Copy

Sub-Assistant Registrar

va
To

1.The Commercial Tax Officer,
Chrompet Assessment Circle,
Chennai - 600 044.

2.The Appellate Deputy Commissioner (East),
Greams Road, Chennai.

+1 cc to the Special Government Pleader(Taxes) sr.8158
+1 cc to Mr.T.Shanmugam Advocate sr.8015

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