IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 21.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.25349 of 2016
and
WMP.No.21658 of 2016

Tvl.K.J.Enterprises,
Rep. by its Proprietor,
R.Rajkumar,
69/35, Royapettah High Road,
Chennai - 600 014. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Royapettah Assessment Circle,
No.46, Greenways Road,
Chennai 600 028. ... Respondent

Prayer:Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari calling for the records of the respondent in his proceedings in TIN/33790781725/2012-13 dated 15.10.2015 and quash the same as illegal.

For Petitioner : Mr.P.R.Kumar

For Respondent : Mr.V.Haribabu
Additional Government Pleader

ORDER

Heard Mr.P.R.Kumar, learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader accepts notice on behalf of the respondent. With the consent of the learned counsel on either side, the Writ Petition itself is taken up for final disposal.

2.The petitioner is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act). The petitioner in this writ petition has challenged the order of assessment passed under the TNVAT Act for the year 2012-2013. It is pointed out by the learned counsel for the petitioner that the major issues which arise for consideration are with regard to mismatch between the purchases in Annexure I and by Cross verification of the transactions with the departmental website, the petitioner has produced the data of M/s.Arihant Distributor and M/s.Kandan Films. The authority did not accept the petitioner's contentions with regard to Arihant Distributor stating that the invoice number, date and value differs. So far as the Kandan Films, the respondent stated that the dealer has not proved that the seller has reported it in his Annexure II. With regard to the another issue relating to reversal of ITC on account of transaction with inactive dealers, the petitioner in their objections pointed out that the seller Suntronix TIN number was wrongly given by mistake and requested to verify the details from the correct TIN number. This explanation given by the petitioner has not been taken into consideration by the respondent and has been rejected by contending that the petitioner has not given any details to verify their contentions. In the petitioner's objection dated 10.09.2015, the petitioner stated that wrong TIN number has been furnished and it is a human error. Therefore, the authority could have verified from their website or called for the details from the other jurisdictional Assessing Officer.

3.In the light of the above, the petitioner is directed to file a petition under Section 84 of the TNVAT Act before the respondent within a period of two weeks from the date of receipt of a copy of this order pointing out the defects and also produce additional documents that are available with the petitioner to establish their stand. If the same is filed, the respondent shall consider the said petition, afford an opportunity of personal hearing to the petitioner and take a decision on merits. It is made clear that the respondent should not reject the petition by a single line order stating that there is no error or mistake on the face of the order, but consider the points raised by the petitioner and thereafter pass a reasoned order within a period of three weeks from the date on which personal hearing is concluded. Till such time, no coercive action shall be initiated against the petitioner for recovering the tax and penalty as quantified in the impugned assessment.

4.The Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (CT),
Royapettah Assessment Circle,
No.46, Greenways Road,
Chennai 600 028.

+1cc to Mr.P.R.Kumar, Advocate, S.R.No.41396
+1cc to the Special Government Pleader(T), S.R.No.41509

W.P.No.25349 of 2016

CA(CO)
CA(01/08/2016)