IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 26.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.25978 & 25979 of 2016 &

W.M.P.Nos.22232 & 22233 of 2016

M/s.International Coal Agency,
Rep. by its Proprietor - C.Thirumoorthy,
No.501, Periyar Nagar,
Erode,
Erode District. .. Petitioner in both Writ Petitions

Versus

The Assistant Commissioner (CT),
Brough Road Assessment Circle,
Erode,
Erode District. .. Respondent in both Writ Petitions

Prayer in both Writ Petitions: These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, to direct the respondent herein to rectify the error on the face of records in the assessment proceedings for the year 2012-13 and 2013-14 respectively under TNVAT Act, 2006, dated 21.01.2015 by disposing of the petition filed by the petitioner under Section 84 of TNVAT Act, dated 23.05.2016 as expeditiously as possible.

For Petitioner in both Writ Petitions : M/s.R.Hemalatha

For Respondent in both Writ Petitions : Mr.Manokaran Sundaram Additional Government Pleader

C O M M O N O R D E R

Heard M/s.R.Hemalatha, learned counsel appearing for the petitioner in both Writ Petitions and Mr.Manokaran Sundaram, learned Additional Government Pleader, accepting notice on behalf of respondents in both Writ Petitions. With the consent of the learned counsel on either side, these Writ Petitions are taken up for final disposal.

2. The petitioner-Company is a dealer in coal and registered with the respondent under the provisions of the Tamil Nadu Value

Added Tax Act, 2006 (hereinafter referred to as the 'TNVAT Act').

3. The petitioner received a notice from the respondent, dated 28.10.2014, for the assessment years 2012-13 & 2013-2014, stating that the details from other dealers' annexure I in the Form I Returns filed for the years 2012-13 and 2013-14 gathered through the web-site showed that the petitioner had local sales turnover and collected VAT at 5%. Therefore, the respondent proposed that the petitioner had suppressed the total turnover and had not paid taxes. On the above ground, the assessment was sought to be revised under Section 22(4) of the TNVAT Act, by determining the taxable turnover on the basis of suppression of sales noticed through website and adding 25% towards probable omission. The respondent also proposed to levy penalty under Section 22(5) of TNVAT Act.

4. The petitioner's case is that since details were not furnished with regard to web report, they could not verify the genuineness of the transactions with relevant records and could not file their objections in time. This ultimately resulted in the Assessments being completed and order being passed on 21.01.2015 for two Assessment years viz., 2012-13 and 2013-14.

5. According to the petitioner while passing the Assessment Orders, certain errors have crept in and therefore, the petitioner sought for Rectification of the order, by filing a Petition under Section 84 of TNVAT Act, on 23.05.2016.

6. The learned counsel for the petitioner submitted that since the errors are apparent on the face of the order, the respondent has sufficient power to rectify the error under Section 84 of TNVAT Act and if the error is rectified, it will considerably reduce the unwarranted tax burden on the petitioner. Since the Petition has not been taken up for consideration, the petitioner is before this Court, by way of this Writ Petition.

7. The learned Additional Government Pleader appearing for the respondent submitted that without setting-aside the Assessment Orders, the respondent may be directed to consider the Rectification Petition dated 23.05.2016.

8. In the light of the above, without going into the merits of the contentions raised by the petitioner, there will be a direction to the respondent to consider the Petition filed by the petitioner under Section 84 of the TNVAT Act, dated 23.05.2016 and pass orders on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner. The above direction be complied with by the respondent, within a period of eight weeks from the date of receipt of a copy of this order.

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

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT),
Brough Road Assessment Circle,
Erode,
Erode District.

+1 cc to Spl.Govt.Pleader,sr.42228.

+2 cc's to Mrs.R.Hemalatha, Advocate,sr.42114.

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krd 11/8

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