IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.29187 of 2016
and
W.M.P.No.25237 of 2016

Fathima India
Represented by its Proprietor
C.Jawid Ahmed
14/8 SIDCO Industrial Estate
SIPCOT
Ranipet. .. Petitioner

..Vs..

The Commercial Tax Officer
Ranipet (SIPCOT)
Ranipet. .. Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records on the files of the respondent herein in TIN:33554363625/2014-15, dated 31.03.2016 and quash the same.

For Petitioner : Mr.N.Inbarajan

For Respondents: Ms.Vasudha Thiagarajan, A.G.P.,

ORDER

Heard Mr.N.Inbarajan, learned counsel for the petitioner and Ms.Vasudha Thiagarajan, learned Additional Government Pleader appearing for the respondent and with the consent of either side, the writ petition itself is taken up for final disposal.

2.The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Valued Added Tax Act, 2006 [TNVAT Act] and the challenge is to the impugned order of assessment in so far as it reverses the Input Tax

Credit with reference to the sellers Annexure-II. The learned counsel for the petitioner pointed out that though in the impugned assessment order, it has been stated as if the petitioner had filed their objection, the fact is that the petitioner had not filed any objection.

3.Be that as it may, the respondent has given a partial relief to the petitioner, but however there has been a reversal of ITC with reference to the sellers Annexure-II. The learned counsel for the petitioner would submit that if an opportunity of personal hearing had been granted, the petitioner would have been able to produce the Annexure-II of the selling dealer and satisfy the respondent that there is no mismatch.

4.In the light of the above, the writ petition is partly allowed and the impugned order is set aside in so far as it reverses the Input Tax Credit with reference to the sellers Annexure-II and the imposition of penalty and the matter is remanded to the respondent for fresh consideration. The petitioner is directed to file the objections within a period of two weeks from the date of receipt of a copy of this order along with all documents to substantiate their case and on receipt of the same, the respondent shall afford an opportunity of personal hearing and redo the assessment to the said extent. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer
Ranipet (SIPCOT)
Ranipet.

+1cc to Mr.Inbarajan, Advocate Sr.48325
+1cc to M/S.Special Government Pleader Sr.48510

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cnr[co]
srg 21/09/2016