IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2016

C O R A M

THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.30580/2016 & WMP.No.26517/2016

Tvl.Radiant Bearings [Madras]
rep.by its Partner, MR.Vipul R.Badani
299 [144] Thambu Chetty St.,
Chennai-1. .. Petitioner

Versus

The Assistant Commissioner [CT]
Esplanade Assessment Circle,
Chennai 600 001. .. Respondent

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorari calling for the records of the respondent in his proceedings in Cst/14345/2009-10 dated 15.06.2015 and consequential orders in CST/14345/2009-10 dated 04.04.2016 and dated 26.07.2016 and quash the same as illegal.

For Petitioner ... Mr.P.R.Kumar
For Respondent ... Mr.S.Kanmani Annamalai
Addl.Govt.Pleader

ORDER

Heard the learned counsel for the petitioner ; and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent and with their consent, the writ petition is taken up for final disposal.

2 The petitioner challenges the order of the respondent dated 15.06.2015 and the consequential orders dated 04.04.2016 and 26.07.2016 respectively.

3 I have perused the averments set out in the affidavit filed in support of this writ petition and the submissions of the learned Additional Government Pleader instructed by the Assistant Commissioner [CT], Esplanade Assessment Circle, who is present before this Court today.

4 The petitioner's case is that his second application for rectification has been rejected on 15.04.2016. The petitioner would admit that they committed a mistake while

filing the returns. Though partial relief was granted by the Assessing Officer, by passing an order dated 04.04.2016 an the application for rectification dated 28.01.2016, when the second application / petition for rectification was filed on 15.04.2016, it has been rejected. The petitioner's further case itself is that the CST Sales / MEPZ sales has been included twice in the CST Return and also in Form - I and therefore, he requested for rectification. It may be true that earlier, there is an order passed rectifying the assessment proceedings. Nevertheless, if the mistake is on account of the fault committed by the dealer, nothing prevents the Assessing Officer to take into consideration the submission and if found correct, necessary rectification can be made. It appears that a new Assistant Commissioner has taken over the Esplanade Assessment Circle, who is present in Court and willing to take note of the facts and pass orders on merits.

5 Accordingly, the writ petition is allowed and the impugned order dated 26.07.2016 is set aside and the rectification petition dated 15.04.2016 is restored to the file of the respondent who shall consider the same and pass orders on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner [CT]
Esplanade Assessment Circle,
Chennai 600 001.

+1 cc to Mr.P.R.Kumar,advocate,sr.50782

+1 cc to spl.Govt.Pleader,sr.50978.

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krd 20/9

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