IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.30661 of 2016
And
W.M.P.Nos.26564 and 26565 of 2016

M/s.Sri Anoor Tex,
Rep. by its Proprietor - S.Karthik ... Petitioner

Vs.

Assistant Commissioner (CT),
Sathy Road Circle,
Erode,
Erode District. ... Respondent

Prayer:
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the files of the Respondent in his impugned proceedings made in TIN: 33212877190/ 2012-13 dated 29.07.2016 quash the same as illegal and arbitrary.

For Petitioner : Mrs.R.Hemalatha
For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard Mrs.R.Hemalatha, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent. With the consent of either side, this writ petition itself is taken up for disposal.

2.The petitioner in this writ petition challenges the order passed by the respondent dated 29.07.2016. By the said order, the respondent has reversed the Input Tax Credit availed by the petitioner under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act), on the ground that the purchases effected by the petitioner from M/s.Jayam Traders and M/s.Sathya Traders cannot be taken note of, for the purpose of availment of Input Tax Credit as those two dealers' registration certificates have been cancelled. The petitioner on receipt of the plea revision notice dated 04.11.2015 and 09.06.2016 submitted a reply dated 16.06.2016, stating that they have not effected such purchase from registration cancelled dealers.

3.When the case came up for hearing on 02.09.2016, the learned counsel for the petitioner sought time to get instructions as to whether those two registration cancelled dealers have challenged the cancellation of registration. However, today when the matter is heard, the learned counsel is unable to readily report as to what is the stage of the matter in respect of those two dealers. The petitioner would plead that one more opportunity may be granted to the petitioner to appear before the respondent with all documents after making due verification from the sellers.

4.Considering the submission made by the learned counsel for the petitioner and after hearing the learned Additional Government Pleader on the above submission, this Court is inclined to grant one more opportunity to the petitioner subject to certain conditions.

5.Accordingly, the writ petition is disposed of by directing the petitioner to pay 50% of the disputed tax/ proposed reversal of ITC, within a period of eight weeks from the date of receipt of a copy of this order. If the same is complied with, within the time stipulated, then the petitioner is entitled to treat the impugned proceedings as a show cause notice, submit further objections along with supportive documents and the respondent shall redo the assessment, in accordance with law, after affording opportunity of personal hearing. If the petitioner does not comply with the above condition within the time stipulated, the benefit of this order will not enure to the petitioner and the writ petition will stand automatically dismissed, leaving it open to the petitioner to pursue other remedies available in law.

6.This writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

Assistant Commissioner (CT),
Sathy Road Circle,
Erode,
Erode District.

+1 cc to Special Government Pleader Taxes sr 51174
+1 cc to Mrs.R.Hemalatha Advocate sr 50290

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