IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2016

C O R A M

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

W.P.No.30662 of 2016 and
W.M.P.Nos.26566 & 26567 of 2016

M/s.Bhuvaneswari Furniture Mart,
Rep. By its Proprietor - M.Prakash,
No.6, Salem Main Road,
Ulundurpet - 606 107,
Villupuram District. .. Petitioner

Versus

The Commercial Tax Officer,
Thirukoilur, Villupuram District. .. Respondent

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records on the file of the respondent in its impugned proceedings made in TIN No.33164762946/2-14-2015 dated 24.06.2016 quash the same.

For Petitioner ... Mr.S.Rajasekar

For Respondent ... Mr.S.Kanmani Annamalai
Additional Government Pleader

ORDER

Heard Mr.S.Rajasekar, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader accepts notice on behalf of the respondent and with their consent, the Writ Petition itself is taken up for final disposal.

2.The petitioner, who is a dealer in Furniture and registered on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, has filed this writ petition challenging the assessment order for the year 2014-2015. The petitioner would contend that they are a dealer whose turnover is less than Rs.10 lakhs and therefore, they filed yearly returns. On receipt a notice from the respondent dated 31.08.2015, they filed objections and they also filed Form I return, sale bill and purchase bill. The respondent directed the petitioner to produce the copies of the bills and other documentary evidence, for which, the petitioner sent a reply on 24.02.2016 stating that they also submitted Form I Annual Return purchase and sales bill receipts and requested the respondent to accept the same as they are reply. The respondent while completing the assessment stated that the petitioner has reported a turnover of purchase value of Rs.13,59,231/-but whereas on verification of the Website with reference to the other end dealer, the purchase details was Rs.13,83,759/. Therefore, the respondent proposed to reject the returns filed by the petitioner as incomplete and incorrect.

3.The petitioner filed application under Section 84 of the Act stating that the entire turnover should not have been rejected that too based on a Website Report. Therefore, they requested the respondent to consider the turnover reported in the Form-1 return. This petition has been rejected, by order dated 27.07.2016 stating that there is no error apparent on the face of the record. In my view, the rejection of the petition filed under Section 84 of the Act, by order dated 27.07.2016 is incorrect, if the respondent was of the view that purchase value reported in the turnover, annual return filed by the petitioner on 14.09.2015 to the value of Rs.13,59,231/- was correct, then, to that extent, the return should have been accepted. This was because even as per the respondent, in the impugned order, have stated that the purchase dealer details by the other end dealer based on the Department Website is Rs.13,83,759/-. Therefore, the returns ought not to have been rejected in its entirety. Therefore, the respondent should reconsider the petition filed by the petitioner under Section 84.

4.Though the petitioner has challenged the order of assessment, this Court is of the view that it would be sufficient to set aside the order dated 27.07.2016 passed under Section 84 of the TNVAT Act and remand the matter to the respondent for fresh consideration. Accordingly, the relief sought for in the writ petition is moulded and the order dated 27.07.2016 passed by the respondent is set aside and the said petition is restored to the file of the respondent and the same to be heard and decide afresh after affording an opportunity of personal hearing to the petitioner.

5.With the above observations, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer,
Thirukoilur,
Villupuram District.

+1cc to Mrs.R.Hemalatha, Advocate SR.49899
+1cc to the Special Government Pleader Sr.50184

W.P.No.30662 of 2016

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srg 29/09/2016