IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.32014 of 2016
and
WMP.Nos.27763 & 27764 of 2016

M/s.Hari Impex,
Rep. By its Proprietor-K.Hari Prasad,
No.1/195, Natarajapuram,
K.N.Palayam,
Bhavani - 638 301,
Erode District. ... Petitioner

Vs.

Commercial Tax Officer,
Bhavani Assessment Circle,
Bhavani,
Erode District. ... Respondent

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in its impugned proceedings made in CST No.996942/13-14 dated 13.02.2015 quash the same and further directing the respondent herein to rectify the error on the face of records in the assessment proceedings for the year 2013-2014 under CST Act, 1956 dated 13.02.2015 by disposing of the petition filed by the petitioner u/s.84 of TNVAT Act, 2006 read with Section 9(2) of CST Act, 1956 dated 03.02.2016 as expeditiously as possible.

For Petitioner : Mrs.R.Hemalatha

For Respondent : Mr.K.Venkatesh
Government Advocate (Tax)

ORDER

Heard Mrs.Hemalatha, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate (Tax) accepts notice on behalf of the respondent.

2. By consent of the learned counsel on either side, the writ petition is taken up for disposal.

3. The petitioner seeks for issuance of a Writ of Certiorarified Mandamus to quash the order of assessment proceedings dated 13.02.2015 under the provisions of Central Sales Tax Act, 1956 for the year 2013-2014 and further to issue a direction to the respondent to rectify the error in the assessment proceedings by filing a petition u/s.84 of the TNVAT Act, 2006 r/w. Section 9 (2) of the CST Act, 1956, dated 03.02.2016.

4. The petitioner's case is that they are dealing with 'Narrow Woven Fabrics' and the sales are made with in the state as well as inter-state and they are exempted to pay Tax as per the Fourth Schedule/item No.77 A /CC.797 (cotton tape sold in length by hundreds of Meters).

5. While completing the assessment, the assessment officer pointed out that the petitioner has not filed "C" Form for the entire inter-state turn over and therefore, assessed the higher tax at 5%. It is not known as to why the petitioner did not raise such an objection before the authority while assessing proceedings were done. In any event, now the petitioner has filed a petition u/s.84 of the TNVAT Act, 2006 r/w. Section 9 (2) of the CST Act, 1956, dated 03.02.2016 and the same is pending before the respondent.

6. In the light of the above, there will be a direction to the respondent to consider the petition dated 03.02.2016 and pass orders on merits and in accordance with law, after affording an opportunity to the petitioner, within a period of four weeks from the date of receipt of copy of this order. Till then, no coercive action shall be initiated against the petitioner for the recovery of tax.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gv/jbm

To

The Commercial Tax Officer,
Bhavani Assessment Circle,
Bhavani,
Erode District.

+1cc to Mrs.R.Hemalatha, Advocate, S.R.No.51964
+1cc to the Special Government Pleader(T), S.R.No.52450

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VD(CO)
CA(27/09/2016)