IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.32556 of 2016 &

W.M.PÑo.28206 of 2016

M/s V.L.S.Fibre
rep. by Partner,
Chennai. ... Petitioner

vs.

Assistant Commissioner (CT)
Avadi Assessment Circle
Chennai 600054.
... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiiorarified Mandamus to call for the records of the respondent in CST No.841662/2013-14 dated 07.03.2016 and quash the same as illegal and against the principles of natural justice and direct the respondent to pass fresh orders as per law after providing an opportunity of personal hearing to the petitioner.

For Petitioner :Mr.C.Bakthasiromoni

For Respondents :Mr.S.Kanmani Annamalai,
Spl.Govt. Pleader

O R D E R

Heard Mr.C.Bakthasiromoni, learned Counsel is appearing for the petitioner and Mr.S.Kanmani Annamalai,, learned Special GovernmentPleader, appearing for the respondent and also heard Mr.J.AnbuTamilarasi, Assistant Commissioner (CT), Avadi Assessment Circle, who passed the impugned order. With the consent of the learned counsel appearing on 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 Tamil Nadu Value Added Tax

Act, 2006 [TNVAT Act] and Central Sales Tax Act, 1956 [CST Act]. In this Writ Petition, the petitioner has challenged the order of assessment for the year 2013-14 under the CST Act.

3.Though elaborate submissions were made on either side, the issue which is raised before this Court lies in a very narrow compass. According to the petitioner, the turnover on which the C-Declarations were produced have to be reckoned and the petitioner is liable to pay tax at 2% and in respect of other turnover, where Declarations in Form-C has not been produced, higher rate of tax at 5% has to be paid. The contention raised by the petitioner is that the total taxable turnover as determined by the respondent at Rs.12,83,42,184/- has not been explained to the petitioner and the petitioner is unable to know as to how such a turn over has been arrived at.

4.The Assessing Officer who passed the impugned order would state that there was an excess quantity in respect of the C-Forms produced by the petitioner, and therefore it is submitted that the respondent was justified in completing the assessment in the manner as mentioned therein.

5.After considering the factual position, it is clear that there is some factual discrepancy in the matter, which the petitioner did not properly explain with records, though the petitioner has submitted a three page objections on 5.2.2016, to the pre-assessment notice dated 19.1.2016.

6.Considering the fact that the petitioner has been regularly and promptly paying the tax, this Court is of the view that one more opportunity be granted to the petitioner to appear before the Assessing Officer and place all materials. However, that would be with certain conditions.

7.Accordingly, the petitioner is directed to pay tax at 2% on the turnover on which the C-Declaration Forms have been produced and tax at the rate of 5% on the turnover for which the C-declaration Forms have been produced and tax at the rate of 5% on the turnover for which C-Declaration Forms have not been produced. Such payment shall be effected within a period of two weeks from the date of receipt of a copy of this order. On effecting payment, the petitioner is granted another two weeks time to file a petition under section 84 of the Act, setting out his contentions and submit the same along with the copies of the records, Books of Accounts, etc. to the Assessing Officer. On receipt of the same the Assessing Officer shall afford an opportunity of personal hearing, redo the assessment, after taking into consideration the explanation given by the petitioner supported by documents, such as Books of Accounts and other records. In view of the above direction, the respondent is directed to lift the Bank Attachment forthwith.

The Writ Petition is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To

Assistant Commissioner (CT)
Avadi Assessment Circle
Chennai 600054.

+1 CC to Mr. C. Bakthasiromoni, Advocate Sr.No.53898
+1 CC to Special Govt., Pleader, High Court, Chennai 104
Sr.No.53862

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KGK (CO)
MD : 22/09/2016