IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 23.09.2016
Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.33537 of 2016 and
W.M.P.Nos.28950 and 28951 of 2016

M/s. Jannat Fabrics and Apparels
Private Ltd.,rep. by its Managing Director -
D.Prem Aggarwal, Tiruppur District ...Petitioner

Vs

The Assistant Commissioner (CT)
Tiruppur Rural Circle,
Tiruppur, Tiruppur District. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records on the file of the respondent, in its impugned proceeding, made in TIN 33292395735/2015-16, dated 31.08.2016, and to quash the same.

For Petitioner : Mr.S.Rajasekar

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

O R D E R

Heard Mr.S.Rajasekar, learned counsel appearing for the petitioner, and Mr.R.Venkatesh, learned Government Advocate (Tax), accepting notice on behalf of the respondent. With the consent on either side, the Writ Petition itself is taken up for disposal.

2. The petitioner is a registered dealer on the files of the respondent, under the provisions of Tamil Nadu Value Added Tax (TNVAT Act). In this Writ Petition, the petitioner has challenged the order of assessment, dated 31.08.2016.

3. Under normal circumstances, this Court will not entertain any Writ Petition against the assessment order. However, in the instant case, there appears to be gross violation of principles of natural justice, which necessitated this Court to exercise its jurisdiction.

4. On receipt of a pre-revision notice, proposing to revise the petitioner's total taxable turnover based on the inspection conducted at their place of business by the Enforcement Wing of the Department, on 08.10.2015, the petitioner submitted a representation on 19.07.2016,

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stating that they are maintaining true and correct accounts, and they are filing the monthly returns and paying the tax promptly, and at the time of inspection, the physical stock value was taken in a random manner, within a short period, and in order to file detailed objections for the alleged stock difference, the petitioner requested for furnishing full texts of the details and working sheet, for arriving at the value of the physical stock as well as the amount of stock value, as per the books of accounts, since those details have not been furnished by the respondent. Further, the petitioner requested that the details and working sheet for the stock value as per the books of accounts and physical stocks may be furnished at the earliest, and the petitioner agreed to bear the expenses for furnishing the copies of those documents. With this representation, the petitioner requested that they may be granted further time to submit their detailed objections. This reply was followed by another representation, dated 12.08.2016, requesting for 15 days' time to file objections. Subsequently, another representation was given on 24.08.2016, wherein, the petitioner referred to the earlier order passed by this Court, in a Writ Petition filed by the petitioner, in W.P.No.28500 of 2016, in which, this Court passed orders on 17.08.2016, for return of the cheques collected by the Enforcement Wing. In the light of the above representations made by the petitioner, the respondent should have furnished the details as sought for by the petitioner. However, the respondent, by the impugned assessment order stated that, at the time of inspection, the dealer agreed and signed in the stock difference statement, and based on the same, assessment has been completed.

5. The manner, in which, the respondent completed the assessment is incorrect and it is in violation of principles of natural justice. Therefore, the impugned order calls for interference.

6. Accordingly, the Writ Petition is allowed, the impugned order is set aside and the matter is remanded to the respondent with a direction to the respondent to furnish the details as sought for by the petitioner at the cost of the petitioner and after furnishing the details, the petitioner may be granted 15 days' time to submit their objections and on receipt of the objections, the respondent shall afford an opportunity of personal hearing and thereafter, shall redo the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar (CS-III)

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Sub-Assistant Registrar

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To

The Assistant Commissioner (CT)
Tiruppur Rural Circle,
Tiruppur, Tiruppur District.

+1CC to The Special Govt. Pleader [Taxes] High Court, Chennai-104 SR.NO.54506

Writ Petition No.33537 of 2016

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MK:25/10/2016

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