In the High Court of Judicature at Madras

Dated : 03.10.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.34832 of 2016 & WMP.Nos.29986 & 29987 of 2016

M/s.Radha Electricals, rep.by
its Proprietor S.Balakrishnan ...Petitioner

Vs

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

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the file of the respondent in its impugned proceedings made in TIN : 33393041894/2015-16 dated 16.8.2016 and quash the same.

For Petitioner : Mrs.R.Hemalatha

For Respondent : Mr.K.Venkatesh, GA

ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, 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 the Tamil Nadu Value Added Tax Act, 2006. The petitioner is a dealer in electricals. In this writ petition, the petitioner has challenged the order of assessment under the said Act for the year 2015-16.

3. The only issue that arises for consideration is as to whether the respondent could have demanded tax from the petitioner to the tune of Rs.1,02,000/-, when, in the impugned order, the respondent accepted that the petitioner paid tax to the tune of Rs.1,02,000/- at the time when the inspection took place. Therefore, to that extent, the impugned order cannot be sustained.

4. The other issue would be as to whether the equal addition should be made and penalty should be levied under Section 27(3) of the said Act.

5. Thus, the assessment requires to be redone by taking note of the fact that the petitioner paid tax to the tune of Rs.1,02,000/- as admitted by the respondent in the impugned order.

6. Accordingly, the writ petition is allowed and the impugned order is set aside. The respondent is directed to take note of the tax paid by the petitioner, consider their explanation for equal time addition and levy of penalty and redo the assessment under those two heads in accordance with law, after affording an opportunity of personal hearing to the petitioner. No costs. Consequently, the above WMPs are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT),
Mettur Rd. Circle, Mettur, Erode Dist.

1 cc to Special Government Pleader,(Taxes) Sr. 56747

WP.No.34832 of 2016 &
WMP.Nos.29986 & 29987
of 2016

MV (COO)
kk 22/10