In the High Court of Judicature at Madras

Dated : 04.10.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.35024 of 2016
& WMP.Nos.30202 & 30203 of 2016

M/s.Thirumalai Chemicals Ltd.,
rep.by its Executive Engineer
(Mfg. & Projects) P.M.C.Nair ...Petitioner

Vs

The Assistant Commissioner (CT)
(FAC), Ranipet (SIPCOT) Circle,
Ranipet, Vellore 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 33274360093/2014-15 dated 30.8.2016 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 public limited company, engaged in the manufacture of chemicals at Ranipet and is an assessee on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006.

3. The respondent issued a notice dated 11.3.2016 stating that on cross verification of the e-returns filed by the other end dealers in the intranet website of the Department, it was found that the petitioner had effected purchases from other end dealers during the year 2014-15 and claimed input tax credit. The particulars of the dealers, who were four in number, were furnished in the notice and it was further stated that those purchases have not been accounted for by the dealers at the other end in their monthly returns in Annexure II for the relevant year. Therefore, there was a proposal to disallow the claim of input tax credit on the mismatch noticed for the said year.

4. The petitioner, while acknowledging receipt of the notice dated 11.3.2016, sent a representation dated 23.3.2016 requesting for 10 days' time i.e upto 2.4.2016. This representation is stated to have been delivered in the office of the respondent vide an endorsement in the letter delivery book dated 23.3.2016. However, it appears that the petitioner did not file any objections nor went and met the Assessing Officer. Ultimately, the Assessing Officer was left with no alternative except to pass the impugned order.

5. But, one grave error committed by the Assessing Officer is that he referred to various other alleged transactions culled out from intranet, but according to the petitioner, they did not correlate with the transactions stated to have been taken place with the petitioner other than those four, which were referred in the notice dated 11.3.2016. This is an error, which goes to the root of the matter affecting the very validity of the impugned proceedings. This is a sufficient ground to interfere with the impugned order.

6. Accordingly, the writ petition is allowed, the impugned order is set aside and liberty is granted to the respondent to issue a fresh notice to the petitioner after conducting a basic enquiry or verification of the intranet website of the Department and after affording an opportunity to file objections and for a personal hearing and redo the assessment in accordance with law. No costs. Consequently, the above WMPs are closed.

04.10.2016

Internet : Yes

To
The Assistant Commissioner (CT)(FAC), Ranipet (SIPCOT) Circle,
Ranipet, Vellore District.

RS

<u>T.S.SIVAGNANAM,J</u>

RS

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