In the High Court of Judicature at Madras

Dated : 06.10.2016

Coram :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.35465 of 2016 & WMP.No.30527 of 2016

Tvl.Global Trading Company
rep. by its Partner Murtaza
Taherali Calicutwala ...Petitioner

Vs

The Assistant Commissioner (CT),
Esplanade Assessment Circle,
NO.116, Angappa Naikker Street,
2nd Floor, Chennai-1. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the respondent in his proceedings in TIN/33096259743/2014-15 dated 15.7.2016 and quash the same as illegal.

For Petitioner : Mr.P.R.Kumar
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, engaged in the business of hardwares, tools, etc. In this writ petition, the petitioner has challenged the assessment order dated 15.7.2016 under the said Act for the year 2014-15.

3. The admitted case is that the petitioner, on receipt of the notice dated 31.3.2016, did not submit their objections nor appeared before the Assessing Officer, though an opportunity of personal hearing was granted. However, what the petitioner has done is that on receipt of the notice, they paid a sum of Rs.17,321/-, which is the proposed input tax credit reversal in the notice dated 31.3.2016. The Assessing Officer, after waiting for a substantial period of time,

completed the assessment stating that the petitioner has none to offer, as they did not respond to the pre-revision notice.

4. The learned counsel for the petitioner would submit that the payment of Rs.17,321/- made by the petitioner is in respect of the transactions, which are not covered by C Forms. But, in other respects, the petitioner has not admitted.

5. However, as noticed above, the petitioner did not submit their objections. Therefore, the respondent cannot be faulted for completing the assessment.

6. The second issue raised by the petitioner is that there is no proposal for levy of interest under Section 42(3) of the said Act in the pre-assessment notice dated 31.3.2016.

7. There could not have been a proposal to the said effect because this demand for interest itself is on account of the conduct of the petitioner admitting the input tax credit reversal to the tune of Rs.17,321/-. In any event, the petitioner can be heard in the matter and an opportunity can be given to put forth their contentions. This observation is made taking note of the fact that the petitioner is a small dealer and the disputed tax is also less than Rs.30,000/-.

8. In the light of the above, the writ petition is disposed of with a direction to the petitioner to pay 15% of the disputed tax to the respondent within a period of three weeks from the date of receipt of a copy of this order. On such payment, the petitioner is entitled to treat the impugned assessment order as a show cause notice and submit their objections within a period of two weeks therefrom. On receipt of the objections, an opportunity of personal hearing shall be granted to the petitioner and the assessment shall be redone in accordance with law. In case of any default in payment, this order will not enure to the benefit of the petitioner and the writ petition will stand automatically dismissed without any further reference to this Court. No costs. Consequently, the above WMP is closed.

RS

-Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

To
The Assistant Commissioner (CT),
Esplanade Assessment Circle, Chennai-1.

+ 1 c.c. To MR.P.R.KUMAR, Advocate Sr.No.57484
+1 c.c. THE Special Government Pleader Sr.No.57733

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WMP.No.30527 of 2016

RP(CO)

RRI 12/11/2016