IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.39258 of 2016 and

W.M.P.Nos.33614 & 33615 of 2016

1 M/s.Millenia Hi-Tech Systems
Pvt Ltd Rep by Director M.Habeeb Rahman No.
727 Patheri Road Anna Salai
Chennai-600 002. ... Petitioner

Vs

1 The Assistant Commissioner
(CT) Anna Salai Assessment Circle
Commercial Taxes Annexe Building Greams Road
Chennai-600 006. ... Respondent

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India to issue Writ of Certiorari to call for the records of the respondent in TIN.33330641177/ A3 dt.18.08.2016 quash the same and further direct the respondent to consider the petitioner filed dated 03.07.14 followed by petition dt.25.07.16 in light of the Administrative Circular issued by the Principal Secretary and Commissioner of Commercial Taxes in Circular No.25/2014 (Acts Cell-III/ 32692/ 2013) dated 30.05.2014.

For Petitioner : Mr.V.Sundareswaran

For Respondent :Mr.K.Venkatesh, Government Advocate

ORDER

Heard Mr.V.Sundareswaran, the learned counsel for the petitioner and Mr.K.Venkatesh, the learned Government Advocate, who accepts notice on behalf of the respondent and with the consent of either side, the writ petition itself is taken up for final disposal.

2. The petitioner, who is a registered dealer on the file of the respondent, under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the 'TNVAT Act' in short), has challenged the attachment notice issued by the respondent, dated 18.8.2016, addressed to the petitioner's banker, viz., M/s.ICICI Bank, Anna Salai, attaching the petitioner's bank account for recovery of the arrears of tax and penalty, for the assessment years 2009-10 and 2010-11.

3. The petitioner's case is that the revision notice was received by their Sales Tax Consultant and the same was not intimated to the management, resulting in an ex-parte order of assessment. On coming to know of the same, the petitioner submitted two representations on 3.7.2014, enclosing the necessary details and requesting for re-doing the assessment. In the said representations, the petitioner pointed out that the sales have been effected to the units in SEZ and they are exempted sales. However, there is no proof to show that the representations dated 3.7.2014 were served on the office of the respondent. Thereafter, the petitioner has filed another representation on 25.7.2014, enclosing the following documents:

"1) Re conciliation report along with VAT/CST Statement.

2) Copy of the exemptions certificate

3) Commodity Code proof

4) Proof for Unregistered dealer."

This representation has been acknowledged by the office of the respondent by an endorsement made in the letter delivery book, on 25.7.2014. It is submitted that this application is still pending on the file of the respondent. In the meantime, after about two years, an attachment notice has been issued.

4. The learned counsel for the petitioner submitted that the issue involved in this writ petition is squarely covered by the order passed by this Court in IJM Concrete Products Pvt. Ltd., vs. The Assistant Commissioner (CT), Poonamallee Assessment Circle in W.P.Nos.24913 to 24917 of 2015, dated 28.06.2016. Therefore, it is submitted that the authority may be directed to consider the petitioner's application dated 25.7.2014, which is a petition under Section 84 of the TNVAT Act, 2006.

5. Considering the fact that the petition dated 25.7.2014 has been acknowledged by the office of the respondent by affixing the seal and signature on 25.7.2016, it is appropriate for the respondent to pass an order on the said application. Until then, the respondent shall not recover any money from the petitioner's bank account, but the attachment can continue.

6. In the light of the above, the respondent is directed to consider the petitioner's application, dated 25.7.2014, filed under Section 84 of the TNVAT Act, 2006, afford an opportunity of personal hearing to the petitioner and pass a speaking order on merits and in accordance with law, within a period of three weeks from the date of receipt of a copy of this order. Till such orders are passed, the attachment of the petitioner's bank account, pursuant to the impugned notice, dated 18.8.2016, shall continue, but the respondent shall not recover any money from the petitioner's bank account.

7. The writ petition is disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

msk

To

1 The Assistant Commissioner
(CT) Anna Salai Assessment Circle
Commercial Taxes Annexe Building Greams Road
Chennai-600 006.

+1 cc to M/s.V.Sundareswaran Advocate sr 65143
+1 cc to Special Government Pleader (Taxes) High Court Madras sr 64786

W.P.No.39258 of 2016

rsk(co)
aa08/12/2016