IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.41423 of 2016

Tvl.Copral Insulated Conductors Pvt. Ltd.,
rep. by its Managing Director .. Petitioner

..Vs..

The Assistant Commissioner (CT)
Hosur (North), Hosur. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records of the respondent in order dated 14.10.2016 in TIN No.33083320600/2013-14 and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.S.Kanmani Annamalai
Addl. Government Pleader

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O R D E R

Heard Mr.Adithya Reddy, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader accepting notice on behalf of the respondent. By consent, the Writ Petition itself is taken up for final disposal.

2. The petitioner is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 [TNVAT Act] on the file of the respondent and this Writ Petition has been filed challenging the order dated 14.10.2016, issued by the respondent for the assessment year 2013-14.

3.The only ground on which the impugned order has been questioned is by contending that while estimating the manufacturing loss, the respondent adopted an adhoc percentage of 1% and sought to levy tax on the same.

4.The learned counsel refers to the explanation given to the pre-assessment notice dated 01.09.2016, stating that generation of scrap is very limited and their manufacturing process due to modernized manufacturing hub and whatever scrap has been generated has been disclosed by them and tax has been paid.

5.Along with the explanation, the petitioner has not produced documents to establish as to how the copper and aluminium scraps have been quantified by them.

6.Accordingly, while holding that the Writ Petition is not maintainable, liberty is granted to the petitioner to file an Appeal before the Appellate Authority namely the Deputy Commissioner, within a period of thirty days from the date of receipt of a copy of this order and the Appellate Authority shall entertain the Appeal without reference to the limitation. The petitioner will be entitled to produce records to substantiate their plea that for the copper and aluminium scraps which have been quantified, taxes have been paid by them and that was the amount which have been actually quantified. The Appellate Authority shall consider the additional documents placed by the petitioner and take a decision on the Appeal Petition on merits and in accordance with law.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

25.11.2016

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T.S.SIVAGNANAM, J

rpa

To

The Assistant Commissioner (CT)
Hosur (North), Hosur.

W.P.No.41423 of 2016

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