In the High Court of Judicature at Madras

Dated : 30.11.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.41984 of 2016 & WMP.No.35932 of 2016

M/s.VISTA, rep.by its Partner ...Petitioner

Vs

The Assistant Commissioner (CT),
Ashok Nagar Assessment Circle,
Chennai-92. ...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: 33851404281/2014-15 dated 5.10.2016 and quash the order therein as illegal and unconstitutional.

For Petitioner : Mr.C.Bakthasiromani
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 and the Central Sales Tax Act, 1956. In this writ petition, the petitioner challenges an order of assessment for the year 2014-15 under the State Act.

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3. Though several grounds have been raised in the writ petition, it is seen that the impugned order has been passed ex parte for the reason that the petitioner did not file their objections.

4. The learned counsel for the petitioner submits that one more opportunity may be granted to the petitioner to go before the Assessing Authority, since the petitioner filed their objections on 28.10.2016, which, have admittedly been sent after

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the impugned order was passed, but have been acknowledged by the Deputy Commissioner (CT), Ashok Nagar Assessment Circle on 28.10.2016, as could be seen from the endorsement in the letter delivery book.

5. The learned counsel for the petitioner further submits that the issue involved in this case pertains to interpretation of Section 19(2)(5) of the Tamil Nadu Value Added Tax Act, 2006 and there are several cases pending before this Court. However, since the petitioner did not file their objections within the time permitted, this legal issue has to be first raised before the Assessing Authority. Therefore, this Court is of the view that the assessment should be redone after taking into consideration the petitioner's objections.

6. Accordingly, the writ petition is allowed, the impugned order is set aside and the matter is remitted back to the respondent for a fresh consideration. The respondent shall take into consideration the petitioner's objections dated 28.10.2016, received by the Deputy Commissioner (CT) on 28.10.2016 and redo the assessment in accordance with law. No costs. Consequently, the above WMP is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT), Ashok Nagar Assessment Circle, Chennai-92.

+1cc to Mr.C.Bakthasiromani, Advocate Sr.70888
+1cc to the Special Government Pleader Sr.70626

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WP.No.41984 of 2016&
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