IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.42098 and 42099 of 2016 &
W.M.P.Nos.36008 & 36009 of 2016

M/s.Mando Automotive Indian Private Limited,
Rep. by its Authorized Signatory,
Plot No.F-64, SIPCOT Industrial Part 1,
Irungattukottai,
Sriperumbudur-602 105. .. Petitioner in both Writ Petitions

Versus

The Deputy Commissioner (CT)-IV,
Large Taxpayers Unit,
No.34, Dugar Towers, 5th Floor,
Marshalls Road, Egmore,
Chennai-600 008. .. Respondent in both Writ Petitions

Prayer in both Writ Petitions: These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for Writs of Certiorarified Mandamus to call for the records of the respondent and to quash the assessment proceedings in TIN No.33630600757/2013-14 & 2014-15 respectively, dated 25.10.2016 and direct the respondent to pass fresh orders after receiving the pending certificates issued by the purchasers in this State as per Rule 6(3)(b) of TNVAT Rules 2007 and assess such turnover which relates to levy of tax on industrial inputs at concessional rate for the year 2013-14 & 2014-15 respectively.

For Petitioner in
both Writ Petitions : Mr.C.Baktha Siromoni

For Respondents in
both Writ Petitions : Mr.K.Venkatesh
Government Advocate

C O M M O N   O R D E R

Heard Mr.C.Baktha Siromoni, learned counsel appearing for the petitioner in both Writ Petitions and Mr.K.Venkatesh, learned Government Advocate, accepting notice on behalf of respondents in both Writ Petitions. With the consent of the learned counsel on either side, these Writ Petitions are taken up for 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'), dealing in cars and auto mobile parts.

3. In these Writ Petitions, the petitioner has challenged the orders of assessment for the years 2013-14 and 2014-15 respectively, dated 25.10.2016.

4. The assessment has been completed solely on the ground that the petitioner has not produced Industrial Inputs Certificate for the value of the transactions noted in the impugned order. The petitioner does not dispute the said fact. Therefore, the assessment order cannot be quashed. Furthermore, the petitioner did not avail the opportunity granted to them. Hence, this is sufficient to dismiss the Writ Petition.

5. Faced with the said situation, the learned counsel for the petitioner submitted that all the Industrial Inputs Certificates are available with the petitioner for the relevant assessment years and opportunity may be granted to the petitioner to produce the same. In this regard, a Circular issued by the Principal Commissioner, dated 28.02.2001 has been referred to. In the said Circular, the following direction has been issued to the assessing officers:-

> "All the Assessing Officers may be instructed to accept the Form XVIII filed after passing final assessment orders and revise the assessments under Section 55 of the Tamil Nadu General Sales Tax Act, 1959. Form XVII and other Forms should be issued without mentioning any date of validity as in the case of Form 'C' and 'F'.
>
> The Assessing Officers may also instructed to mention in the assessment order itself by a foot note that the dealers may file the missing declaration forms / certificates, as the case may be, and the assessment will be revised under Section 55 of Tamil Nadu General Sales Tax Act, 1959 as and when the Forms like C, D, EI, EII and Form XVII (as the case may be) are filed by the dealers after final assessment."

As per the said Circular, if the certificates and forms are produced belatedly, there is no bar for the assessing officer to accept the same.

6. In the light of the same, this Court is inclined to direct the petitioner to appear before the respondent and produce the remaining Industrial Inputs Certificates for the relevant assessment years.

7. Accordingly, the Writ Petitions are dismissed with a direction to the petitioner to appear before the respondent within one week from the date of receipt of a copy of this order and produce the Industrial Input certificates for the relevant period, which shall be considered by the respondent and thereafter a speaking order shall be passed on merits and in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

r n s
To

The Deputy Commissioner (CT)-IV,
Large Taxpayers Unit,
No.34, Dugar Towers, 5th Floor,
Marshalls Road, Egmore,
Chennai-600 008.

+1cc to M/S.C.Baktha Siromoni, Advocate Sr.70887
+1cc to the Special Government Pleader Sr.70721

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srg 07/12/2016