BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.10.2016

CORAM :

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD)No.20332 of 2016
and WMP.(MD).NO.14531 of 2016

Tvl.Sara Plantations
rep.by its Partner R.Jeyaseelan ... Petitioner

Vs.

Assistant Commissioner (CT),
Bodi Assessment Circle,
Bodinayakanur. ... Respondent

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondent herein to rectify the error in his order passed in CST No.138380/2014-15 dated 29.07.2016 pursuant to the petitioners petition dated 22.08.2016 filed before the respondent herein under Section 84 of the Tamil Nadu Value Added Tax Act 2006.

For Petitioner : Mr.A.Chandrasekaran
For Respondent : Mr.R.Karthikeyan
Additional Government Pleader

O R D E R

This writ petition has been filed, seeking a direction to the respondent to rectify the error in his order passed in CST No.138380/2014-15 dated 29.07.2016 pursuant to the petitioner's petition dated 22.08.2016 filed under Section 84 of the Tamil Nadu Value Added Tax Act, 2006.

2.Heard the learned counsel for the petitioner and the learned Additional Government Pleader, who takes notice for the respondent. By consent, this writ petition is taken up for final disposal at the stage of admission.

3.The petitioner is a dealer in a cardamom and an assessee on the file of the respondent. He regularly filed monthly returns and paying taxes. The petitioner is despatching cardamom to his agents on consignment basis as per separate agreements entered into between them and the despatched cardamom were sold by their agents on behalf of the petitioner and received commission as per agreement. The consignment sale through the agents in other states are not liable to tax as per Section 6-A of the CST Act. The respondent, on 29.07.2016, has wrongly passed an order, demanding 5% tax on the sale of exempted goods. Therefore, seeking to rectify the defects, the petitioner submitted a petition dated 22.08.2016. As it is not considered, this writ petition has been filed.



4.The learned Additional Government Pleader appearing for the respondent would submit that Section 84 of the Tamil Nadu Value Added Tax Act, 2006 speaks only about the suo motu powers to the authorities and not about the powers which should be exercised on the representation made by the petitioner.

5.This Court is of the view that suo motu powers can also be exercised on the basis of representation made by the petitioner.

6.Under such circumstances, the respondent is directed to consider the petition dated 22.08.2016 in the light of Section 84 of the Tamil Nadu Value Added Tax Act, 2006 or on any other applicable provision and pass orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

7.The Writ petition is disposed of with the above direction. No costs. Consequently, WMP(MD)No.14531 of 2016 is closed.

Sd/-
Assistant Registrar(CS I)

/True copy/

Sub Assistant Registrar

mj
To
Assistant Commissioner (CT),
Bodi Assessment Circle,
Bodinayakanur.

+1cc to Mr.A.Chandrasekaran, Advocate SR.No.63182
+1cc to special Government Pleader SR.No.64224

sm:KM:18.11.2016:2P/4C

W.P(MD)No.20332 of 2016
24.10.2016