IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.5084 of 2017
and
W.M.P.No.5356 of 2017

Heytek Industries,
Represented by its Authorized Signatory
D.K.Goyal, No.S-83, Greater Kailash - II,
Second Floor, New Delhi - 110 048. ... Petitioner

Vs

The Assistant Commissioner (CT),
Koratttur Assessment Circle,
No.52/98, Yadhaval Street,
Padi, Chennai - 600 050. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the impugned notice of the respondent issued in TNVAT/33981443349/2009-2010 dated 31.01.2017 and quash the same and further direct the respondent to serve the assessment order if any passed by the respondent relating to the demand of tax of Rs.3,11,330/- made in the impugned notice.

For Petitioner : Mr.N.Murali

For Respondent : Mr.K.Venkatesh
Government Advocate

ORDER

Heard Mr.N.Murali, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondent. With the consent on either side, the writ petition is taken up for final disposal.

2.The petitioner is aggrieved by a notice of demand calling for the petitioner to pay a sum of Rs.3,11,330/- as tax payable for the assessment year 2009-2010.

3.The petitioner's definite case is that an assessment order is based on self assessment procedure. If the said order was accepted and the petitioner was assessed in accordance with Section 22(2) of the Tamil Nadu Value Added Tax Act by order dated 11.04.2011 and the order has become final and no notice was issued to the petitioner for reopening the assessment. Earlier the petitioner approached this Court challenging the order of assessment for the year 2010-2011 in W.P.No.41328 of 2016. On 05.01.2017, the said writ petition was allowed and the assessment order was set aside and the petitioner was directed to appear before the respondent on 31.01.2017 which the petitioner is stated to have complied with. However, it appears that till date, no assessment order has been served on the petitioner in respect of the year 2009-2010 except the impugned assessment order dated 11.04.2011.

4.Though the matter has been adjourned for more than seven occasions, the respondent has not filed counter affidavit.

5.Considering the fact that there is no document to show that there has been a revision of assessment, for the relevant year viz., 2009-2010, the impugned demand is set aside with a direction to the respondent to serve the copy of the assessment order if already issued on the petitioner within a period of 15 days from the date of receipt of a copy of this order. Leaving it open to the petitioner to workout their remedies in the manner known to law.

6.With the above observation, the Writ Petition is allowed. No costs.Consequently,connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Sgl
To

The Assistant Commissioner (CT),
Koratttur Assessment Circle,
No.52/98, Yadhaval Street,
Padi, Chennai - 600 050.

+1cc to Mr.N.Murali, Advocate, S.R.No.46461
+1cc to the Special Government Pleader(Taxes), S.R.No.46498

W.P.No.5084 of 2017

CS IV
CA(24/07/2017)