IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.9138 of 2017 and
W.M.P.No.10063 of 2017

Tvl.MothersonTex,
Represented by its
Partner S.Vijayakumar, ... Petitioner

Vs.

The Commercial Tax Officer,
South Assessment Circle,
Tirupur South,
Tirupur. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the Assessment Order in CST/671667/2012-2013 dated 03.03.2017 passed by the Respondent, quash the same as arbitrary and illegal.

For Petitioner : Mr.Joseph Prabakar

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.Joseph Prabakar, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate accepting notice on behalf of the respondent.

2. The petitioner, who is a registered dealer on the file of the respondent under the provisions of Tamil Nadu Value Added Tax Act, 2006, and CST Act, is before this Court challenging the order of assessment under the CST Act, for the year 2012-2013, dated 03.03.2017. The challenge to the impugned assessment order is on the ground of violation of the principles of natural justice.

3. On a prima-facie reading of the impugned order, it is seen that the petitioner did not have effective opportunity to put-forth their submissions. The Assessing Officer has revised the turnover on the ground that the earlier turnover mentioned was an error. If the Assessing Officer exercised his power under section 84 (1) of TNVAT Act and if the revision would result in higher rate of tax being levied, then the dealer is entitled to an opportunity.

4. The dispute has arisen as to whether the petitioner has submitted manual forms, namely, 12 forms. According to the petitioner, he has submitted it on 03.03.2014 and acknowledgment obtained in their letter delivery book. The Assessing Officer sent an e-mail to the learned Government Pleader stating that the letter delivery book is a manipulated record and it pertains to only Win exporter and not with regard to the petitioner.

5. However, this Court cannot embark upon a fact finding exercise on this allegation, as it is high time for the Commercial Tax Department to abandon the practice of giving acknowledgment in letter delivery book. Only because the Commercial Tax Department is adopting such age old practice, it gives room for all complaints. Therefore, it is best that this issue is left at this stage and the authority is directed to proceed in accordance with law.

6. For the above reasons, the writ petition is allowed and the impugned order is set aside and the matter is remanded to the respondent for fresh consideration, who shall grant an opportunity of personal hearing to the petitioner and after considering the documents placed by the petitioner redo the assessment in accordance with law. No Costs. WMP.No.10063 of 2017 is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

msm

To

The Commercial Tax Officer,
South Assessment Circle,
Tirupur South,
Tirupur.

+1cc to M/s.Joseph Prabhakar, Advocate, S.R.No.51212
+1cc to the Special Government Pleader, S.R.No.51499

W.P.No.9138 of 2017 And
W.M.P.No.10063 of 2017

AR(CS V)
CU(11/08/2017)