IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2017

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THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**

W.P.No.8460 of 2017 and
WMP.No.9259 of 2017

M/s.Compuage Infocom Ltd.,
Represented by its Authorised Signatory,
P.Balamurugan
Nagappa Centre, No.2, Lalithapuram,
Gowdiayamutt Road, Royapettah,
Chennai - 600 014. ...Petitioner

Vs

The Commercial Tax Officer,
Royapettah Assessment Circle,
No.48, Pasumpon Muthuramalinga Thevar Salai,
Chennai - 600 028. ...Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 17.03.2017 in proceedings No.TIN/33490581628/2013-14 issued by the respondent and quash the same and further direct the respondent to pass fresh assessment order after taking into account the documents submitted by the petitioner on various dates.

For Petitioner : Mr.Hari Radhakrishnan

For Respondent : Mr.K.Venkatessh
Government Advocate

ORDER

Heard Mr.Hari Radhakrishnan, learned counsel for the petitioner and Mr.K.Venkatesah, learned Government Advocate appearing for the respondent. With the consent of the learned counsel on either side, the writ petition itself is taken up for final disposal.

2. The petitioner, who is a registered dealer on the file of the respondent under the provisions of Central Sales Act and Tamil Nadu Value Added Tax Act, 2006, is before this Court, challenging the assessment order dated 17.03.2017 for the year 2013-2014 under the provisions of Central Sales Act. The petitioner is aggrieved by the order directing reversal of entire input tax credit availed by the petitioner, except a marginal amount of Rs. 6,32,118/-, as the petitioner has already reversed, solely on the ground that the details with regard to opening stock, purchase, sales, Branch Transfer and closing stock separately for local purchase, import purchases and interstate purchases are not furnished.

3. The petitioner has drawn the attention of this Court to the objection given by the petitioner dated 03.02.2017 to the notice dated

18.01.2017 and submitted that split-up figures were furnished to the Assessing Officer. Further, the learned counsel has produced a printed statement showing Branch Transfer register for the relevant period and also produced a copy of the endorsement made in the Letter Delivery Book from the office of the respondent to show that these documents were furnished. The said contention has also been specifically reiterated in Ground B of the affidavit filed in support of the writ petition.

4. The learned Government Advocate has produced written instructions given by the Assessing Officer along with the covering letter dated 28.06.2017, from which, it is seen that there is no specific denial by the respondent with regard to the averments made by the petitioner that all split-up details, as sought for were furnished to the respondent. This Court is at a loss to understand as to how the assessee would be benefited by not fully disclosing the figures, when his case is that substantial portion of transactions had been disclosed. Therefore, this Court is of the view that one more opportunity should be granted to the petitioner to go before the Assessing Officer to establish all their transactions.

5. In the light of the above, the writ petition is disposed of, by directing the petitioner to treat the impugned proceedings as a Show Cause Notice and submit additional objections, enclosing the copies of statement with regard to opening stock, purchase, sales, branch transfer and closing stock separately for local purchases, import purchases and interstate purchases. The petitioner is directed to submit his objections within one week from the date of receipt of a copy of this order and on receipt of which, the respondent shall afford an opportunity of personal hearing to the petitioner and proceed to pass a speaking order on merits and in accordance with law. Till the above directions are completed, no coercive action shall be initiated against the petitioner, pursuant to the impugned order dated 17.03.2017. No costs. Consequently, connected miscellaneous petition is closed.

24.07.2017

svki

To

The Commercial Tax Officer,
Royapettah Assessment Circle,
No.48, Pasumpon Muthuramalinga Thevar Salai,
Chennai - 600 028.

T.S.SIVAGNANAM,J

(svki)

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