In the High Court of Judicature at Madras

Dated: 06.01.2017

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The Honourable Mr.JUSTICE RAJIV SHAKDHER

Writ Petition No.460 of 2017

and WMP No.487 of 2017

M/s.Marudhar Stones International Pvt. Limited,
rep. by its Authorised Signatory
Mr.R.Murali,
Plot No.367 & 368-A, Samanapalli Main Road,
Alur Road, SIPCOT, Hosur - 635 109.

.... Petitioner

Vs.

The Assistant Commissioner (CT),
Hosur (North) Assessment Circle,
Hosur.

.... Respondent

PETITION under Article 226 of The Constitution of India praying for issuance of Writ of Certiorari to call for the records of the first respondent in TIN:33503323182/2010-11 dated 27.09.2016 received on 18.10.2016, quash the same as the impugned proceedings suffers from an apparent error of jurisdiction being ultravires the provisions of the Tamilnadu Value Added Tax Act, 2006 and law laid down by this Hon'ble Court.

For Petitioner : Mr.V.Sundareswaran

For Respondent : Mr.K.Venkatesh, G.A.

O R D E R

1. Issue notice. Mr.K.Venkatesh, accepts notice on behalf of the respondent.

2. With the consent of counsels for parties, the Writ Petition is taken up for hearing and final disposal.

3. This Writ Petition is directed against the order dated 27.09.2016, passed by the respondent.

3.1. By virtue of the impugned order, the petitioner has been called upon to pay tax, in the sum of Rs.5,44,119/- and penalty, in the sum of Rs.2,72,060/-.

4. The principal reason for passing the impugned order appears to be that, according to the respondent, the petitioner had availed Input Tax Credit (ITC) for the purchases effected from dealers, who had neither disclosed their sales turnover nor had they filed 'E' returns. In other words, according to the respondent, this was a case of wrong availment of ITC.

5. Counsel for the petitioner says that prior to the passing of the impugned order, a reply dated 28.07.2015 was sent to the notice issued by the respondent, which is dated 19.06.2015. Learned counsel says that in the said reply, it was clearly indicated, that in so far as the dealer Selva Granite was concerned, inadvertantly, incorrect TIN number was furnished.

5.1. It is, therefore, the submission of the learned counsel for the petitioner that this fact was not noticed while passing the impugned order.

5.2. I am further informed by the learned counsel for the petitioner that, in this behalf, a representation dated 08.12.2016 was sent to the respondent, which has not been disposed of as yet.

6. I have put to Mr.Venkatesh as to whether the said representation could be treated as a petition filed under Section 84 of the Tamil Nadu Value Added Tax Act, 2006 (in short the '2006 Act').

6.1. Mr.Venkatesh says that the needful could be done.

7. Accordingly, the Writ Petition is disposed of with the direction to the respondent to treat the representation dated 08.12.2016 preferred by the petitioner as a petition filed under Section 84 of the 2006 Act.

7.1. It is further directed that pending the disposal of the rectification petition/representation, no coercive measures will be taken against the petitioner in pursuance of the impugned order.

8. Resultantly, connected Miscellaneous Petition stands closed. However, there will be no order as to costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

sl

To

The Assistant Commissioner (CT),
Hosur (North) Assessment Circle,
Hosur.

+1cc to Mr.V.Sundareswaran, Advocate sr.1567

+1cc to Special Pleader sr.1722

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sr(co)
ss(3/2/2017)