IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 27.2.2017.

CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.4803 of 2017
and
W.M.P.Nos.5034 and 5035 of 2017

M/s.Everest Electrical Enterprises
Pvt Ltd Rep by its Director
A.Natarajan
No.159/1-A Thamirabarani Street
Palaniappa Nagar Alwarthirunagar
Chennai 600 087. Petitioner

vs.

The Assistant Commissioner (CT)
Saligramam Assessment Circle
No.21 G.K.Industrial Estate
1st Main Road Chennai-600 087. Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records of the respondent in TIN.33881390830/ 2013-14/ 29.07.2016 and quash the same and further direct the respondent to pass fresh order on the Form WW filed by the Petitioner, on merits.

For Petitioner : Mr.S.Sivakumar
For Respondents : Mr.K.Venkatesh, Govt. Advocate (T)

ORDER

The writ petition is filed for issuance of a writ of certiorarified mandamus to call for the records of the respondent in TIN.33881390830/ 2013-14/ 29.07.2016 and quash the same and further direct the respondent to pass fresh orders on the form WW filed by the petitioner.

2. The case of the petitioner is that it is a registered dealer with TIN No. TIN.33881390830/2013-14 under TN VAT Act and the petitioner was regularly filing monthly returns with annexure and prescribed documents alongwith proof for payment of

tax. The petitioner would claim that the respondent issued a notice on 25.11.2015 and a further notice on 25.5.2016 calling for production of Value Added Tax audit report in form 'WW'. On the sole ground of non-filing of VAT audit report in form WW within October 2014, the respondent issued the first notice dated 25.11.2015.

3. According to the petitioner, as per Section 63A of the TN VAT Act and Rule 16-A of the TN VAT Rules, for non-filing of Form WW, penalty of Rs.10,000/- is to be levied and no assessment is required and hence, the entire assessment order is devoid of merits and liable to be set aside. It is the further case of the petitioner that the petitioner has filed form WW for the year 2013-14 belatedly on 23.8.2016, after receipt of the impugned order and the petitioner has also paid penalty imposed by the respondent, but, it was not considered and in the light of the order passed in W.A.No.1148 and 1149 of 2015 dated 11.8.2015, the impugned order has to be set aside and direction has to be issued to the respondent to re-consider.

4. Heard Mr.S.Sivakumar, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate (Taxes) for the respondent and perused the records.

5. In similar facts and circumstances, this court had set aside the impugned order and remitted the matter back to the respondent to consider the matter afresh, taking note of the form WW filed by the appellant therein. In the instant case, it is contended by the learned counsel for the petitioner that after the impugned order was passed on 29.7.2016, the petitioner has filed form WW on 23.8.2016.

6. In view of the order passed by the Division Bench, the impugned order is set aside and the matter is remitted back to the respondent for fresh consideration. Accordingly, the writ petition is disposed of. No costs. The connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT)
Saligramam Assessment Circle
No.21 G.K.Industrial Estate
1st Main Road Chennai-600 087.

+1cc to M/S. Siva Kumar, Sr. 12434 dated 27/02/2017
+1cc to Special Government Pleader Sr. 12734
dated 28/02/2017

W.P.No.4803 of 2017

AD(CO)
VR(16/03/2017)