IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.20720 of 2017
and
W.M.P.No.21548 of 2017

M/s.Lakshmi Ganapathy Ginners Private Ltd.,
represnted by its Manager and the Authorized Signatory,
Mr.Nagarjuna Reddy,
32-B, Kongunagar 3rd Street Extension,
Tiruppur-641 607. .. Petitioner

Vs

The Assistant Commissioner (CT),
Kongunagar Circle, Tiruppur. .. Respondent

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the impugned proceedings of the respondent in TIN:3348629049/2015-2016 dated 15.06.2017 and quash the same as passed contrary to the provisions of the Tamil Nadu Value Added Tax Act, 2006 and against the principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader

ORDER

Heard Mr.P.Rajkumar, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent.

2.With the consent of the learned counsel on either side, the main writ petition itself is taken up for final disposal.

3.The petitioner, who is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 ("TNVAT Act" in short) is aggrieved by the order of assessment dated 15.06.2017 passed by the respondent for the year 2015-2016. The respondent issued a notice dated 25.05.2017 proposing to tax the turnover of the petitioner @ 5%

under Section 27(1)(a) of the TNVAT Act on the ground that they are not eligible to pay the tax under Section 5(1) of the Act and they have to remit the tax under Section 3(2) of the Act. Though 15 days time was given to the petitioner, they did not submit objections and the impugned order has been passed on 15.06.2017. Immediately thereafter on 16.06.2017, the petitioner submitted his objections and also requested for check-post records and if there is any variation in the details given by them in the check-post records, they will clarify the difference if any that may arise.

4.This objection has been received by the respondent after the order of assessment has been passed. Therefore, the petitioner cannot expect the respondent to take note of the objections. After considering the fatual details set out in the objections dated 16.06.2017, this Court is inclined to give one more opportunity to the petitioner to go before the Assessing Officer.

5.Accordingly, there will be a direction to the petitioner to file a petition under Section 84 of the TNVAT Act for rectification of the assessment, produce all the documents in their custody, request for any details that may be required by them for re-conciliation and appear before the respondent and explain the entire transaction. On doing so, the respondent shall pass a speaking order on merits and in accordance with law, within a period of two weeks from the date of receipt of the petition filed by the petitioner under Section 84 of the TNVAT Act. Till such time, no coercive action shall be initiated against the petitioner.

6.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

KM

To

The Assistant Commissioner (CT),
Kongunagar Circle, Tiruppur.

1cc to Mr.P.Rajkumar, Advocate Sr. 55425

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KGK(CO)
VR(29/8/2017)