In the High Court of Judicature at Madras

Dated : 06.12.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.31613 of 2017 & WMP.No.34739 of 2017

Tvl.Unitek Hydraulics, rep.by
its Partner S.Ayyappan ...Petitioner

Vs

The Commercial Tax Officer,
Ganapathy Circle, Coimbatore. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the files of the respondent in CST No.1096122/2014-15 dated 14.10.2016 and quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondent : Mr.K.Venkatesh, GA

ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956. The petitioner is aggrieved by the impugned assessment order dated 14.10.2016 passed under the Central Enactment for the year 2014-15.

3. The petitioner cannot have any grievance with regard to the manner, in which, the Assessing Officer completed the assessment on the ground of non cooperation of the assessee in the assessment proceedings. The petitioner did not respond to the revision notice issued by the respondent nor produced export documents. For the first time, the documents relating to export sales are produced before this Court and it is submitted that those documents should be considered. But, this Court cannot examine those documents and it is for the dealer to produce the same before the Assessing Officer, which the petitioner is willing to do. Further, considering the fact that the impugned

order was passed on 14.10.2016 and till date, the respondent is not able to recover any tax or penalty as quantified in the impugned order, this Court is inclined to grant one opportunity to the petitioner, however, subject to a condition.

4. Accordingly, the writ petition is disposed of with a direction to the petitioner to pay 15% of the disputed tax within three weeks from the date of receipt of a copy of this order. If the petitioner complies with the said condition, they will be entitled to treat the impugned order as a show cause notice and submit their objections within a period of seven days therefrom. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner, peruse all the documents and redo the assessment in accordance with law. It is needless to add that the benefit of this order will not enure to the petitioner if the petitioner fails to comply with the condition of payment of 15% of the disputed tax within the time stipulated. No costs. Consequently, the above WMP is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

To
The Commercial Tax Officer,
Ganapathy Circle, Coimbatore.

+1cc to the Spl Government Pleader, S.R.No. 87505

WP.No.31613 of 2017&
WMP.No.34739 of 2017

PVS(CO)
TR(26/12/2017)