IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.02.2017
CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.3188 of 2017
And
W.M.P.No.3119 of 2017

Bhavani Ceramics and Hardwares
Represented by its Proprietor ... Petitioner

Vs.

The Commercial Tax Officer
Hosur (South) ... Respondent

Prayer:
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the order of the Respondent in TIN 33773363725/2011-12 dated 15/10/2014 and quash the same.

For Petitioner : Mr.S.Rajasekaran
for M/s.Adithya Reddy
For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

1.Issue Notice. Mr.K.Venkatesh, learned Government Advocate, accepts notice on behalf of the respondent. With the consent of the learned counsels for parties, the writ petition is taken up for hearing and final disposal.

2.This writ petition is directed against the assessment order dated 15.10.2014, which pertains to the assessment year 2011-12.

3.A perusal of the impugned assessment order shows that a pre-assessment notice was issued purportedly to the petitioner, which was dated 29.01.2014.

3.1.The petitioner claims that the said notice was not received by him and therefore, no objections could be filed.

4.This apart, it is the case of the petitioner that a perusal of the impugned assessment order would show that the proceedings emanated from an inspection carried out by the Enforcement Wing of the Sales Tax Department between 08.07.2011

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and 12.07.2011 pertaining to the assessment years 2007-08 to 2011-12.

4.1.Learned counsel says that based on the purported defects pointed out by the Enforcement Wing, the pre-assessment notice, referred to above, was issued to the petitioner.

5.It is the petitioner's case that at the time when inspection was made of his records, the Enforcement Officials had collected a sum of Rs.2,51,732/-. In addition thereto, a cheque bearing no.070057 dated 12.07.2011 drawn on South Indian Bank, Hosur, for a sum of Rs.41,040/- was also handed over to the concerned officials.

6.It is therefore, the contention of the learned counsel for the petitioner that, apart from other apparent errors in the impugned order, one of the errors is that these payments made by the petitioner had not been adjusted by the respondent, while passing the impugned assessment order.

7.Furthermore, learned counsel for the petitioner says that apart from above, an additional sum of Rs.2,12,710/- has been paid to the Sales Tax Department, via, cheque bearing no.845787, dated 05.10.2016.

7.1.For this purpose, my attention has been drawn to page no.15 of the typed set of documents.

7.2.According to the petitioner, these facts need to be taken note of and requisite adjustments, are required to be made.

8.Learned counsel for the petitioner also submits that a representation dated 25.10.2016 was made to the respondent, with regard to the apparent errors in the impugned order. It is averred by the learned counsel for the petitioner that no orders have been passed in the said representation.

9.Mr.Venkatesh, who appears for the respondent, says that since a representation has been made under Section 84 of the Tamil Nadu Value Added Tax Act, 2006, this Court could direct disposal of the said representation.

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10.Having heard the learned counsels appearing for the parties, I find, that the course of action suggested by Mr.Venkatesh, has merit.

11.Accordingly, the respondent is directed to dispose of the representation dated 25.10.2016, after affording an opportunity of personal hearing to the petitioner. The petitioner will be at liberty to file documents, if any, before the respondent, on which, he seeks to place reliance.

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12.Needless to say, the respondent will pass a speaking order; a copy of which will be served on the petitioner. Pending disposal of the representation dated 25.10.2016, no coercive measures will be taken against the petitioner, pursuant to the impugned assessment order dated 15.10.2014. The respondent will however, complete the aforementioned exercise with due expedition, though, not later than six weeks from the date of receipt of a copy of this order.

13.The writ petition is disposed of in the aforementioned terms. Consequently, the connected pending application is closed. However, there shall be no order as to costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Commercial Tax Officer
Hosur (South)

+1 cc to M/s.Adithayareddy Advocate sr 8438
+2 cc to Special Government Pleader Taxes sr 8615 & 8565

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