IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.33913 of 2017 and
W.M.P.No.37614 of 2017

Tvl.Sri Ganesh Agencies
Rep. By its Proprietor R.Ganesan
No.2/47, Jekkasamudram
Palacode Taluk,
Dharmapuri District - 616 805. ... Petitioner

Vs.

The State Tax Officer,
Palacode Assessment Circle,
Dharmapuri District - 616 805. ... Respondent

Prayer: Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondent in TIN No.33453292412/2014-15 dated 10.08.2017 consequential proceedings in PA.SA.No.33453292412/A3/ 1118510 dated 23.10.2017 quash the same and direct the respondent to consider the revised form WW and pass orders after affording a personal hearing to the petitioner.

For Petitioner : Mr.S.Raveekumar

For Respondent : Mrs.Narmadha Sampath
Special Government Pleader

ORDER

सत्यमेव जयते

Heard Mr.S.Raveekumar, learned counsel for the petitioner and Mrs.Narmadha Sampath, learned Special Government Pleader accepts notice on behalf of the respondent. With the consent on either side, the writ petition is taken up for final disposal.

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2.The petitioner is before this Court seeking for consequent relief, firstly to consider his monthly return submitted on 19.09.2014; secondly, for consideration of the petition filed under Section 84 of the Tamil Nadu Value Added Tax Act, 2006 dated 17.05.2016. In the impugned assessment order, the respondent has stated that the revised monthly return is not enclosed along with the objections dated 17.05.2016 to the revision notice dated 06.04.2016. However, the petitioner's case

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is that the revised return was submitted to the respondent in person on 19.09.2014.

3.The learned counsel for the petitioner has produced Photostat copy of the revised return. It shows that the same was received by the Commercial Tax Officer, Palacode on 19.09.2014 and his signature has been affixed. Therefore, the revised return should be available in the assessment file. Hence, the observation that the petitioner has not enclosed the revised monthly return along with the petition is incorrect as the petitioner's case is that even in 2014 it was filed manually. With regard to the other issue, the petitioner has filed revised Form WW.

4.Though the Learned Special Government Pleader pointed out that it is a mistake of the Accountant and cannot be rectified, in my view, if a genuine mistake has crept-in, then, within the time permitted under the Statute, the dealer is entitled to file revised Form WW or revised return. In fact, this has been done by the petitioner and along with the revised Form WW, he has requested the respondent to exercise his power and revise the assessment. This revised Form WW has been received by the State Tax Officer, Palacode on 21.08.2017.

5.Hence, for the above reasons, this Court is of the view that the petition filed by the petitioner dated 21.08.2017 received by the State Tax Officer on the same day, should be considered on merits and in accordance with law and while doing so, the respondent should also take into consideration the revised monthly return submitted on 19.09.2014.

6.In the result, the Writ Petition is disposed of, by directing the respondent to consider the petitioner's representation dated 21.08.2017 as well as the revised monthly return presented on 19.09.2014 and pass appropriate orders on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner. The above direction shall be completed within a period of six weeks from the date of receipt of copy of this order. Till then, the respondent shall not initiate any coercive action against the petitioner for recovering the tax and penalty, as quantified in the impugned assessment order. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Sgl

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To

The State Tax Officer,
Palacode Assessment Circle,
Dharmapuri District - 616 805.

+1 cc to the Govt Pleader sr 92617
+1 cc to Mr.S.Raveekumar Advocate sr 92497

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