IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.12.2017

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No. 33921 of 2017
and
W.M.P.No.37624 of 2017

Sri Venkateswara Glass & Hardwares
No.2, Macheri Main Road
B.D.O. Office Bus Stop
Pennagaram
Dharmapuri - 636 810. ...Petitioner

Vs.

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

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent in TIN 33283291196/2014-15 dated 27.03.2017, and to quash the same and consequently direct the respondent to consider the revised form WW and pass orders after affording a personal hearing to the petitioner.

For Petitioner : Mrs.K.E.Sri Krishna Priya
For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard Mrs.K.E.Sri Krishna Priya, the learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, the learned Additional Government Pleader, accepting notice on behalf of the respondent. With the consent on either side, this Writ Petition is taken up for disposal.

2. The petitioner has challenged the assessment order passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) for the year 2014-15.

3. It may not be necessary for this Court, to examine the factual aspects set out in the assessment order, since there

appears to have been certain defects in Form - WW filed by the petitioner earlier, i.e., on 03.12.2015. Therefore, the petitioner has approached the Chartered Accountant, who has checked the entire account, and filed revised Form - WW on 21.08.2017, and along with the Petition, dated 21.08.2017 filed under Section 84 of the TNVAT Act, the petitioner has requested the respondent to revise the assessment. Since the Petition is still pending, the petitioner is before this Court.

4. Further, it is pointed out that, Section 22(4) of TNVAT Act mandates an opportunity of personal hearing, and without affording the same, the respondent could not have finalized the assessment. In support of such contention, the learned counsel for the petitioner has placed reliance on the decision of the Division Bench of this Court in the case of SRC Projects Private Limited V. Commissioner of Commercial Taxes, Chennai and Another reported in (2010) 33 VST 333 (Mad).

5. Considering the factual position and taking note of the fact that the revised Form - WW has been filed well within the time permissible. This is a fit case, where, appropriate orders should be issued by the respondent to consider the claim made by the petitioner.

6. Accordingly, this Writ Petition stands disposed of, by directing the respondent to take into consideration the representation, dated 21.08.2017 and the revised Form - WW submitted by the petitioner, and afford an opportunity of personal hearing and redo the assessment in accordance with law. Till the above said exercise is done, no coercive action shall be initiated against the petitioner for recovery of tax and penalty, as quantified in the assessment order, dated 27.03.2017. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar



dna/sd

To

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

+1 CC to Spl. Govt. Pleader(T) sr 92618.
+1 CC to Mr.S. Ravee Kumar, Advocate sr 92498.

Writ Petition No. 33921 of 2017

NRK(CO)
SP(22/01/2018)