IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition Nos.14142 & 14143 of 2017
and
WMP.Nos.15344 & 15345 of 2017

M/s. Shenbagam Marketings,
Rep.by its Manager,
6/6, V.E. School Road,
Kongu Nagar Extension,
Tiruppur - 641 607. .. Petitioner
(in WP.Nos.14142 & 14143 of 2017)

Vs.

The Assistant Commissioner (CT),
Kongu Nagar Circle,
Tiruppur. .. Respondent
(in WP.Nos.14142 & 14143 of 2017)

Common Prayer:

Writ petition Nos.14142 & 14143 of 2017 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the respondent in his proceedings in TIN Nos:33802441481/2014-15 and TIN:33802441481/2015-16,quash the notice dated 17.4.2017 issued therein, respectively.

For Petitioner: Mr.R.L.Ramani,
Senior counsel for
Mr.B.Raveendran
(in WP.Nos.14142 & 14143 of 2017)

For Respondent : Mr. K. Venkatesh
Government Advocate
(in WP.Nos.14142 & 14143 of 2017)

C O M M O N   O R D E R

In both these writ petitions, the petitioner, who is one and the same, is aggrieved by the notice dated 17.04.2017 issued under Section 81(1)(b) of the Tamil Nadu Value Added Tax, Act 2006, in respect of the assessment years 2014-2015 & 2015-2016.

2. Mr.K.Venkatesh, learned Government Advocate takes notice for the respondent. By consent of the parties, these main writ petitions themselves are taken up for final disposal at the admission stage itself.

3. The learned Senior Counsel appearing for the petitioner submitted that though the notice impugned is styled as the one issued under Section 81(1)(b) of the TNVAT Act, thereby calling upon the petitioner to produce the sale invoices and other proof of movements, delivery notes etc., it is further proceeded therein as though the same is also the one of the notice of proposal, alleging as if the petitioner has made some purchase suppression. Therefore, the learned Senior Counsel submitted that when the scope of Section 81(1)(b) of the TNVAT Act is limited only for production of documents, the respondent is not entitled to go one step further and proceed to treat the notice under the dispute as the one of notice of proposal as well.

4. The learned Government Advocate submitted that the impugned notice is only issued under Section 81(1)(b) of the TNVAT Act 2006, and thus the respondent would certainly confine with the said notice for the purpose of production of the documents alone. Therefore, he submitted that if the respondent, after perusal of the documents, comes to the conclusion that there is a purchase suppression, he will certainly issue a notice of proposal separately as required under the Section 27 of the said Act, if so warranted.

5. Heard both sides.

6. These writ petitions are filed challenging the notice issued under Section 81(1)(b) of the said Act. Though this Court will not normally interfere at the notice stage, considering the reasonable apprehension raised by the petitioner, based on the averments contained in the impugned notice, this Court finds that there is some force in the contention of the petitioner that the respondent sought to treat the notice as the one of notice of proposal as well. As rightly pointed by the learned Senior Counsel for the petitioner, such course cannot be sustained, since a notice of proposal has to follow only at a later point of time, after verification of the documents by the respondent. Therefore, these notices impugned in these writ petitions have to be treated and confined only for the production of the documents, as contemplated under Section 81(1)(b) of the said Act and not for any other purpose.

7. Accordingly, both the writ petitions are disposed of, by directing the respondent to treat the impugned notices only for the purpose of satisfying requirements under Section 81(1)(b)

of the said Act and not to treat the same as notice of proposal issued under Section 27 of the said Act. It is needless to say, that if the respondent is satisfied that there is a purchase suppression, it is open to him to issue the notices of proposal in accordance with law at appropriate time. The petitioner is directed to give reply and produce all the documents sought for by the respondent within a period of three weeks from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mk/ms
To

The Assistant Commissioner (CT),
Kongu Nagar Circle,
Tiruppur.

+1cc to M/S.B.Raveendran, Advocate Sr.40828
+1cc to the Special Government Pleader Sr.40929

W.P.Nos.14142 & 14143 of 2017

GM i[co]
srg 22/06/2017