In the High Court of Judicature at Madras

Dated : 07.9.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.24090 of 2017 & WMP.No.25409 of 2017

Tvl.TVARUR Oil & Fats Pvt. Ltd.,
rep.by its Senior Taxation Executive
and Authorized Representative
Mr.Govind Sharma ...Petitioner

Vs

The Commercial Tax Officer,
Nagapattinam Assessment Circle,
C.T.Building, Court Campus,
Veliyapalayam, Nagapattinam. ...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 TIN No.33663542605/2014-15 dated 17.7.2017 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondent : Mr.S.Kanmani Annamalai, AGP

ORDER

Mr.S.Kanmani Annamalai, learned Additional Government Pleader 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 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 order of assessment for the year 2014-15 under the State Act dated 17.7.2017.

3. The only ground, on which, the order dated 17.7.2017 has been challenged is by contending that none of the objections raised by the petitioner was considered, though the respondent has, verbatim, reproduced the objections in the impugned assessment order. Further, it is pointed out that in the last paragraph of the impugned order, the respondent, while referring to invoice No.10000055, wrongly noted the date as 24.10.2015 whereas the correct date is 24.10.2013.

4. If the correct date has been noted, the respondent would not have rejected the documents as being irrelevant for the relevant assessment year.

5. Furthermore, the certificate of audited statement was produced by the petitioner, a copy of which has been enclosed in the typed set of papers, which shows that it is the certificate for the relevant year. Thus, a mistake has crept in while passing the impugned order presumably due to a typographical mistake. Therefore, this Court is of the view that the assessment shall be redone in a proper manner. That apart, with regard to the mismatch report obtained through departmental website, the petitioner

has given their explanation apart from pointing out the legal position as held by this Court in the case of ***J.K.M.Graphics Solutions Private Limited Vs. C.T.O., Vepery Assessment Circle [W.P.No.105 of 2016 dated 01.3.2017].*** The respondent, while completing the assessment, has not discussed anything on the said issue and the impugned assessment order is wholly devoid of reasons. On the above grounds, the impugned order is liable to be interfered with.

6. In the result, the writ petition is allowed, the impugned order is set aside and the matter is remitted back to the respondent for a fresh consideration. The respondent shall afford an opportunity of personal hearing to the petitioner, peruse the documents that they produce, take into consideration the explanation given by them with regard to the allegation of mismatch and redo the assessment in accordance with law. It is needless to state that the respondent shall independently take a decision in the matter and shall not be solely guided by the proposal received from the officials of the Enforcement Wing. This Court is inclined to make such an observation, because in the last paragraph of the impugned order, the respondent stated that he is confirming the proposal given by the officials of the Enforcement Wing. No costs. Consequently, the above WMP is closed.

RS
07.9.2017

T.S.SIVAGNANAM,J

RS

Internet : Yes

To
The Commercial Tax Officer, Nagapattinam Assessment Circle, C.T.Building, Court Campus, Veliyapalayam, Nagapattinam.

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WMP.No.25409 of 2017

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