In the High Court of Judicature at Madras

Dated : 08.9.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.24227 of 2017

Ion Exchange India Ltd., rep.by
its Manager Accounts, Hosur. ...Petitioner

Vs

The Assistant Commissioner (CT)
Hosur North. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to dispose of the petitioner's representation dated 24.7.2017.

For Petitioner : Ms.D.Naveena
For Respondent : Mrs.Narmadha Sampath, SGP

ORDER

Mrs.Narmadha Sampath, learned Special 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 company registered under the Companies Act based at Mumbai with a branch in Tamil Nadu. The petitioner was served with an order of assessment dated 27.1.2017 for the year 2009-10, in which, it was stated that the Indian Railway and Casting Corporation Limited awarded a contract to the petitioner for setting up of packaged drinking water bottling plant as per their letter dated 10.12.2009, that the contract turnover has not been reflected in the monthly returns filed by the petitioner under the Tamil Nadu Value Added Tax Act, 2006 and that it is liable to tax at 4% under Section 6 (i)(ii) of the said Act. It has been further stated that a notice dated 28.6.2013 was issued and served on the petitioner on 29.7.2013, that subsequently, a revision notice dated 05.10.2016 was issued and served on the petitioner on 26.10.2016 and that as the petitioner did not file their reply/objections to both the notices, the respondent had to confirm the proposal in the notices and passed the impugned order.

3. It is not known as to why the petitioner did not respond to the notices issued by the respondent. Be that as it may, the petitioner approached the respondent by filing a representation for rectification of the assessment dated 24.7.2017. Since the said representation has not been disposed of, the petitioner is before this Court by way of this writ petition.

4. The learned Special Government Pleader points out that in the said representation, the petitioner admitted that initially, they obtained Form S from the office of the respondent in 2010 in anticipation of the execution of contract, that they never actually executed the contract and that the contract was executed almost entirely from the material supplied directly from outside the State and hence, Section 6 of the said Act has no application. It is further submitted by the learned Special Government Pleader that this issue is a question of fact, which has to be established by the petitioner and that having not responded to the revision notice, the respondent was justified in passing the impugned assessment order.

5. Considering the fact that the petitioner has now sought for rectification, in the fitness of things, it will be appropriate for the respondent to consider the petitioner's representation dated 24.7.2017 and pass orders thereon on merits and in accordance with law.

6. In the light of the above, without going into the contentions raised by the petitioner, the writ petition is disposed of directing the respondent to consider the representation dated 24.7.2017 on merits and pass appropriate orders thereon in accordance with law, after affording an opportunity of personal hearing to the authorized representative of the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar



RS
To
1. The Assistant Commissioner (CT), Hosur North.
+1 CC to Mr. Adithya Reddy, Advocate sr 65165.
+1 Cc to Spl .Govt. Pleader (Taxes), sr 65495.

WP.No.24227 of 2017

SP(27/09/2017)