In the High Court of Judicature at Madras

Dated: 06.01.2017

Coram

The Honourable Mr.JUSTICE RAJIV SHAKDHER

Writ Petition No.388 of 2017

and WMP Nos.420 and 421 of 2017

Tvl. Manikandan Industries,
represented by its Proprietor
No.35/2, Cuddalore Main Road,
Mantharakuppam,
Neyveli - 607 802. .... Petitioner

Vs.

The Deputy Commercial Tax Officer (Addl)
Virudhachalam Assessment Circle,
Neyveli. .... Respondent

PETITION under Article 226 of The Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of the respondent in his order of assessment in TIN 33264426592/2014-15 dated 13.10.2016 and to quash the same as illegal, unconstitutional and in contrary to the provisions of TNVAT Act, 2006 and further direct the respondent to pass fresh orders in accordance with law after granting an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.R.Ganesh Kanna
For Respondent : Mr.K.Venkatesh, G.A.

O R D E R

1. This Writ Petition is directed against the order dated 13.10.2016, passed by the respondent.

2. By virtue of the said order, tax on suppressed turnover, to the extent of Rs.3,37,051/- has been imposed. In addition, penalty at the rate of 150%, quantified at Rs.5,05,576/- has also been imposed. Thus, the total liability cast on the petitioner via the impugned order is a sum of Rs.8,42,627/-.

3. Counsel for the petitioner says that the impugned order apart from anything else, is flawed for the reason that in the notice proposing imposition of tax on the ground of suppression of sale, the figure indicated therein, was a lesser amount, as compared to that, which has been shown in the impugned order. It is, therefore, contended that without issuing a notice of enhancement, the respondent could not have passed the impugned order.

3.1. To be noted, in the notice dated 09/10.08.2016, the suppressed sale, which was proposed to be taxed, was shown as Rs.23,24,491/-. However, in the impugned order, concededly, the suppressed sale has been shown at a higher amount, i.e., Rs.23,62,566/-.

3.2. Therefore, quite clearly, there is an enhancement, qua which, no notice was, apparently, issued to the petitioner.

4. Accordingly, having regard to the aforesaid, the Writ Petition is disposed of giving liberty to the petitioner to file a rectification petition under Section 84 of the Tamil Nadu Value Added Tax Act, 2006. The needful will be done within a period of two (2) weeks from the date of receipt of a copy of the order.

5. Pending the disposal of the rectification petition, no coercive measures will be taken against the petitioner.

6. Resultantly, the connected Miscellaneous Petitions are closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
The Deputy Commercial Tax Officer (Addl)
Virudhachalam Assessment Circle,
Neyveli.

+1cc to Mr.A. Ravichandran, Advocate, S.R.No.1727
+1cc to the Government Pleader, S.R.No.1726

sr(CO)
md(27/01/2017)

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