In the High Court of Judicature at Madras

Dated : 17.2.2017

Coram :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.3937 of 2017 & WMP.Nos.4025 & 4026 of 2017

M/s.Universal Lead Alloys,
rep.by its Partner R.Lalitha ...Petitioner

Vs

The Assistant Commissioner (CT)
(FAC), Vellore (Rural) Circle,
Vellore, Vellore District. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the impugned proceedings made in TIN 33114320896/2014-2015 dated 30.12.2016 and quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mrs.R.Hemalatha

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, which is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006, has filed this writ petition challenging the order passed by the respondent - Assessing Officer under Section 84 of the said Act.

3. The assessment under the said Act for the year 2014-15 was completed under Section 22(2) of the said Act pursuant to a notice dated 20.5.2016. The dispute is with regard to the percentage of eligible input tax credit. It appears that at the time when the petitioner filed returns, they had reversed the input tax credit at 3% of the inter-state sales instead of reversing on the proportionate purchase value. The petitioner filed their revised returns, but the same were not accepted by the Assessing Officer, as it was beyond the time limit prescribed under the Statute.

4. Thus, ignoring the revised returns, the petitioner filed a petition under Section 84 of the said Act to revise the order of deemed assessment on the ground that there is an error apparent on the face of the order. The respondent, while considering the said petition, rejected the same on two grounds, firstly on the ground the revised returns were filed only on 31.12.2015 i.e. after 18 months, which is not entertainable and the second reason being that the issue raised by the petitioner is not based on any order passed by the Assessing Officer for rectification under Section 84 of the said Act.

5. In so far as the first issue is concerned, it is an admitted fact that the revised returns were filed beyond the statutory period. Therefore, the Assessing Officer rightly rejected the revised returns. However, while considering the petition under Section 84 of the said Act, that aspect of the matter should not have weighed in the mind of the respondent. That apart, the observation made in the impugned order stating that the issue is not based on any order passed by the Assessing Officer for rectification is incorrect in the light of the fact that a deemed assessment under Section 22(2) of the said Act is an assessment in the eye of law and according to the petitioner, there is an error apparent on the face of the order and therefore, they sought rectification. Hence, this Court is inclined to interfere with the impugned order.

6. Accordingly, the writ petition is allowed, the impugned order is set aside and the matter is remanded back to the respondent for a fresh consideration. The respondent shall not be guided solely by the fact that the revised returns have been rejected, but shall consider as to whether there was any error apparent on the face of the deemed assessment order by taking into consideration the grounds raised by the petitioner. The petitioner may be afforded an opportunity of personal hearing to put forth their case. The above directions shall be complied with within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the above WMPs are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

RS

To

The Assistant Commissioner (CT) (FAC),
Vellore (Rural) Circle, Vellore,
Vellore District.

+1 CC to Government Pleader, High Court, Chennai Sr.No.10517

+1 CC to Mrs.R.Hemalatha, Advocate Sr.No.10665

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of 2017

SS(CO)
RRI(02.03.2017)

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