IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.2520 of 2017

And

W.M.P.Nos.2488 and 2489 of 2017

Tvl.Sri Priyanka Agencies,
Represented by its Partner ... Petitioner
KottaKuppam, Vanur Taluk.

Vs.

The Commercial Tax Officer (CT),
Tindivanam. ... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the files of the respondent in TIN-33464724660/2014-15 dated 29.11.2016 and quash the same.

For Petitioner : Mr.R.Ganesh Kanna

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

1.Issue Notice. Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepts notice on behalf of the respondent. With the consent of the learned counsels for parties, the writ petition is taken up for hearing and final disposal.

2.By virtue of this writ petition, challenge is laid to the order dated 29.11.2016 passed by the respondent.

2.1.To be noted, the impugned order pertains to assessment year 2014-15.

3.Via the impugned order, the respondent has added to the taxable turnover purchases made in the State which are not accounted for and reversed Input Tax Credit (in short ITC), on account of mismatch in information which was available on the departmental website, as against that, which was reflected in the monthly returns filed by the petitioner.

4.On account of the first aspect, the respondent has levied a tax in the sum of Rs.7,903/- and insofar as the second aspect is concerned, the petitioner has been mulcted with tax amounting to Rs.7,45,746/-. Insofar as tax qua the second aspect is concerned, after making requisite adjustments for the tax paid, the petitioner has been called upon to pay a sum of Rs.7,40,720/-.

5.The petitioner being aggrieved, has assailed the impugned order.

5.1.At the very outset, insofar as the first aspect is concerned, counsel for the petitioner says, he does not wish to challenge the same before me and the tax so calculated in the sum of Rs.7,903/- will be paid.

5.2.As regards the second aspect, counsel for the petitioner says that mere mismatch in information could not have formed the basis of reversal of ITC.

6.In support of this proposition, learned counsel for the petitioner relies upon the order dated 05.01.2017, passed in W.P.No.228 of 2017, titled: Tvl.Murugan Garments Vs. The Assistant Commissioner (CT) (FAC).

7.Mr.Annamalai, who appears for the respondent says that insofar as the second aspect is concerned, he cannot, but submit that the said issue is covered by various judgments of this Court including the order dated 05.01.2017, passed in W.P.No.228 of 2017.

8.I have heard the learned counsels appearing for the parties and perused the record.

9.As indicated above, the challenge in the writ petition is narrowed down to the second aspect, which is, as to whether mere mismatch in information could form the basis of reversal of ITC. This aspect of the matter is clearly covered by the order dated 05.01.2017, passed in W.P.No.228 of 2017.

9.1.Accordingly, the impugned order is set aside. The respondent is directed to re-work the assessment bearing in mind the order dated 05.01.2017, passed in W.P.No.228 of 2017 and the judgments referred to therein.

9.2.The respondent will afford a personal hearing to the petitioner and supply material particulars and information, before passing a fresh assessment order.

10.The writ petition is accordingly, disposed of, in terms of the aforementioned directions. Consequently, the connected pending applications are also closed. However, there shall be no order as to costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

The Commercial Tax Officer (CT)
Tindivanam

+1cc to Mr. A. Ravichandran Advocate Sr. 7121

+1cc to Spl. Govt. Pleader, SR.No. 6637

W.P.No.2520 of2017and
W.M.P.Nos.2488 and 2489 of 2017

NM(CO)
VR(15/02/2017)