In the High Court of Judicature at Madras

Dated : 22.9.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.25474 of 2017
& W.M.P.No.26914 of 2017

Tvl. Nallappa Silks, rep. by
its Partner Mr.V.Shanmugam ...Petitioner

Vs

The Commercial Tax Officer (Main),
Commercial Taxes Building,
Kallakurichi - 606 202.

...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records on the files of the respondent in TIN:33874780743/2015-16 dated 06.07.2017 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 : Mrs.S.Kanmani Annamalai, AGP

O R D E R

Heard Mr.R.Senniappan, learned counsel for the petitioner and Mrs.S.Kanmani Annamalai, learned Additional Government Pleader accepting notice for the respondent. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner, which is the registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, is before this Court challenging the order under Section 22(6) of the said Act, revising the assessment for the year 2015 - 2016.

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3. Initially, a notice was issued to the petitioner proposing to revise the assessment on the ground that there is mismatch with respect to the transactions done by the petitioner when verified with the information available in the Departmental Website. The revision notice sent by the respondent by registered post was acknowledged by the petitioner on 11.11.2016, however, within 3 days i.e. on 15.11.2016, the respondent confirmed the proposal in the notice and passed an

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order of assessment dated 15.11.2016.

4. Immediately, the petitioner filed an application for revision of assessment under Section 22(6) along with objections. The petitioner also produced the accounts namely day book, ledger, purchase and sales bills and copies of balance sheets, etc. Based on the materials placed by the petitioner, the respondent passed the impugned order dated 06.7.2017.

5. I find that in the impugned order, the books of account have been accepted by the respondent. But, however, with regard to the mismatch issued in respect of 20 transactions, the respondent confirmed the proposal in the notice. However, the notice contained a total amount of 246 transactions. In my considerate view, if there was any clarification required to be furnished by the petitioner, the respondent could have called upon the petitioner to appear before him and give necessary details.

6. It is pointed out by the learned counsel for the petitioner that there is one repetition of the same transaction in the impugned order with regard to M/s.Vela Textiles, as the transaction invoice No.1564 has been shown in two places in Serial Nos.1 and 7. Therefore, the petitioner would submit that if the petitioner had been given an opportunity, they would have been able to explain that all the transactions have been accounted for.

7. Thus, considering the peculiar facts and circumstances of the case, this Court is of the view that in respect of mismatch issue alone, the petitioner should be afforded a further opportunity to go before the Assessing Officer.

8. Accordingly, the writ petition is partly allowed, the assessment made with regard to the mismatch issue alone is set aside and the petitioner is directed to submit additional objections with regard to the 20 transactions pointed out in the impugned order and such objections shall be filed within 15 days from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment to that extent as expeditiously as possible. No costs. Consequently, the connected WMP is closed.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer (Main), Commercial Taxes Building,
Kallakurichi - 606 202.

+1 cc to M/s.R.Senniappan Advocate sr 69969
+1 cc to Special Govt Pleader Taxes sr 70744

WP.No.25474 of 2017
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aa23/10/2017

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