IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2017

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.NO.25905 OF 2017
AND
W.M.P.NO.27412 OF 2017

M/s.R.K.Industries-IV,
Represented by its Parter,
Mr.Kiran Agarwal,
No.37 & 37A, Old Trunk Road,
Pallavaram,Chennai - 600 043 ... Petitioner

Vs.

The Commercial Tax Officer
Chromepet Assessment Circle
No.117, Station Road
Radha Nagar, Chennai - 600 044. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings dated 20.04.2016 in TIN No.33910945438/2013-14-VI by the respondent for the month of December 2013, quash the same and for a direction, directing the respondent to consider the objection filed by the petitioner.

For Petitioner : Mr.R.Seniappan
for Mr.R.Saravanakumar

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr. R.Seniappan, the learned Senior Counsel for Mr.R.Saravanakumar, the learned counsel for the petitioner and Mr.K.Venkatesh, the learned Government Advocate, who accepts notice on behalf of the respondent. With consent of the learned counsel appearing on either side, the Writ Petition is taken up for disposal.

2. The petitioner is a registered dealer on the file of the respondent, under the provisions of Tamil Nadu Value Added Tax Act, 2006 (hereinafter, referred to as 'the TNVAT Act') and the Central Sales Tax Act 1956.

3. The petitioner is engaged in the manufacture and export of Readymade Garments. In the course of business activities, the petitioner purchased spare parts like needle, needle plate, bobbin, bobbin case etc., for using the same in the capital goods, namely, tailoring machine, which are used in the manufacture of ready made garments.

4. In this Writ Petition, the petitioner has challenged the order passed by the respondent, disallowing the claim of Input Tax Credit (ITC) under Section 19 (16) of TNVAT Act.

5. It may not be necessary for this Court to examine the correctness of the impugned assessment order. Admittedly, the assessment year, in respect of which, the impugned assessment order has been passed is already over. It is, but proper for the respondent to complete the assessment for the whole year, in stead of passing individual assessment order in respect of the individual month.

6. I am informed that, the petitioner has raised an identical issue in another set of cases, viz., in W.P.Nos.25763 to 25770 of 2017, wherein, the respondent completed the assessment for each and every individual months and those Writ Petitions have been allowed on 03.10.2017 by setting aside the assessment orders. For better appreciation, the operative portion of the said order is extracted as hereinbelow:-

> " 6. Taking note of the submissions of the learned counsel on either side and considering the facts and circumstances of the case, the impugned order dated 09.05.2016 passed by the respondent is set aside and the respondent is directed to make a final assessment in accordance with law, after hearing the petitioner in person and after verifying the records produced by him.
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> The Writ Petition is allowed with the above direction. No costs. Consequently, connected W.M.P.No.27187 of 2017 is closed. "

7. The learned Government Advocate appearing for the respondent agrees with the above submissions made by the learned Senior Counsel for the petitioner.

8. In the light of the above discussions, the Writ Petition is allowed, impugned assessment order is set aside and the matter is remanded to the respondent with a direction to complete the assessment for the relevant year after issuing a fresh show cause notice to the petitioner for whole of the year, giving reasonable opportunity to the petitioner to submit their objections. On receipt of the objections, fix a specific date for personal hearing, and if any clarification is required from the petitioner, the same shall be obtained by the Assessing Officer, and thereafter, the assessment be completed in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sd/kas

To

The Commercial Tax Officer,
Chromepet Assessment Circle,
No.117, Station Road,
Radha Nagar, Chennai - 600 044.

+1cc to Mr.R.Saravanakumar, Advocate, S.R.No.71594
+1cc to the Special Government Pleader, S.R.No.71357

W.P.NO.25905 OF 2017
AND
W.M.P.NO.27412 OF 2017

CS/30/11/17