IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 13.07.2017
CORAM:
THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
W.P.Nos.17812 of 2017
and
W.M.P.Nos.19321 of 2017

Tvl. Kay Kay Overseas Corporation,
Represented by its partner,
Sharad Khandelwal,
48/26 - No.67, Numbal Madaravedu Village,
Ambattur,
Chennai - 600 077. ..Petitioner

Vs.

The Assistant Commissioner (CT),
Nolambur Assessment Circle,
Chennai - 600 049. ..Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari or any other direction or order in the nature of writ calling for the records of the Respondent in TIN/33671351806/2015-16 dated 06.02.2017 and quash the same as arbitrary, illegal.

For Petitioner : Mr.T.V.Ganesh
for Mr.P.R.Kumar.

For Respondent : Mr.K.Venkatesh,
Government Advocate.

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O R D E R

Heard Mr.T.V.Ganesh, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate who accepts notice on behalf of the respondent.

2. By consent of both sides, this Writ Petition is taken up for final disposal at the time of admission itself.

3. The petitioner is a registered dealer, on the file of the respondent, under the provisions of the Tamil Nadu Value Added tax Act and the Central Sales Tax Act, has filed this writ petition challenging the order of assessment for the year 2015-16. The place of business of the petitioner was inspected by

the enforcement wing officials, based on which notice was issued to the petitioner on 03.10.2016 pointing out the four issues namely, 1. Disallowance of ITC, 2. Disallowance of sales return, 3. Tax Liability on stock transfer made against "F" forms as well as against the "C" forms. 4. Liability on cross verification (invoice-wise mismatch) – reversal of ITC.

4.The petitioner submitted their objection, dated 15.11.2016. However, the respondent while completing the assessment stated that they have produced ledger accounts as well as the sales return claims with copies of credit notes raised during the said year, but not produced any proof of documents for the goods returned from the purchasers either from local or from other State buyers.

5. The petitioner case is that they have produced original invoices and they being computer generated invoices, which will not contain any signature and this aspect of the matter was not taken into consideration by the Assessing Officer. Further more, they have stated that while E-filing the monthly returns they have inadvertently entered the supplier name as DELL India instead of DELL International and enclosed the copies of the relevant documents in support of the claim.

6. In the considered view of this Court, if the respondent had afforded an opportunity of personal hearing to the petitioner and verified all the documents and their genuineness, this litigation itself could have been avoided. More particularly, when the petitioner has taken a clear stand that the purchase invoice are computer generated invoices and no signature is required and therefore this Court of the view that one more opportunity is required to be given to the petitioner to go before the Assessing Officer and place materials in their custody.

7. Accordingly, the writ petition is allowed and the impugned order is set aside and the matter is remanded back to the respondent for fresh consideration, who shall consider the computer generated invoices and other documents, produced by the petitioner to substantiate their case and and redo the assessment in accordance with law. No Costs. Consequently, connected Miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sli/arr

To

The Assistant Commissioner (CT),
Nolambur Assessment Circle,
Chennai - 600 049.

+1 cc to Mr.P.R.Kumar & T.V.Ganesh Advocate sr 49068
+1 cc to Special Government Pleader(T) sr 49450

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