IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2017

CORAM

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

W.P.No.18625 of 2017 and
W.M.P.No.20167 of 2017

M/s.Fedders Lloyds Corporation Ltd.,
Rep by its P.A.Holder Mr.P.K.Eappen,
No.10 Haddows Road I Lane,
Chennai 600 006. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Nungambakkam Assessment Circle,
No.88 Mayor Ramanathan Road,
Chennai-31. ... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the respondent in CST No.24648/2013-14 dated 14.06.2017 and quash the same being illegal invalid and violated the provisions of the law and direct the respondent to consider the petitioner's petition dated 07.07.2017, pending with the respondent.

For Petitioner : Mr.D.Vijayakumar

For Respondent : Mr.K.Venkatesh,
Government Advocate

O R D E R

Heard Mr.D.Vijayakumar, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate accepting notice on behalf of the respondent. With the consent on either side, the writ petition itself is taken up for disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Central Sales Tax Act, 1956 (CST Act) and Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act), carrying on business in Air Conditioners and other electrical and structural assembly works. The petitioner is aggrieved by the impugned assessment order dated 14.06.2017,

only on the ground that the petitioner had committed a mistake while submitting their returns along with the stock transfer statement. It is pointed out by the learned counsel for the petitioner in so far as the invoice No.003 dated 24.05.2013, the sale value was mentioned as Rs.16,90,122/- whereas the sale value of the said invoice is only Rs.1,05,453/- and the total sale value is Rs.16,90,122/-. This mistake has been committed by the dealer. The assessment was completed by the Officer based on the said returns and on noticing the same, the petitioner submitted a representation to rectify the error, by representation dated 07.07.2017. It is alleged that the respondent refused to receive the representation and therefore, the petitioner had to send it through speed-post on 18.07.2017.

3. Section 84 of the TNVAT Act empowers the Officer as well as the dealer to effect rectification in the order of assessment for rectifying any error which is apparent on the face of the record. If the submission made by the petitioner is correct, then the error which is pointed out is an arithmetical error and such error if apparent on the face of the record, the Assessing Officer is fully empowered to rectify the mistake and accordingly, re-do the assessment. The Assessing Officers having vested with such power and Section 84 of the TNVAT Act cannot refuse to receive the petition under the said provision and proper procedure would receive the same, afford an opportunity of personal hearing to the dealer and then proceed to pass orders on merits and in accordance with law. This being the legal principle, the respondent is bound to follow the same.

4. Accordingly, there will be a direction to the respondent to take on file the rectification petition dated 07.07.2017, put the petitioner on notice to appear for personal hearing, consider the petition and pass orders on merits and in accordance with law. The above direction shall be complied with within a period of three weeks from the date of receipt of copy of this order. In the light of the above, no coercive action shall be initiated against the petitioner till orders are passed as directed above.

5. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is also closed.



Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gsk

To

The Assistant Commissioner (CT),
Nungambakkam Assessment Circle,
No.88 Mayor Ramanathan Road,
Chennai-31.

+1cc to Mr.D.Vijayakumar, Advocate, S.R.No.51461
+1cc to the Special Government Pleader, S.R.No.51781

W.P.No.18625 of 2017

AR(CS V)
CS/11/08/17