IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.1891 of 2017

and W.M.P.No.1882 of 2017

M/S.Shinie Chem.,
Rep. by its Proprietor - S.Manimaran
33, Govindasamy street
Sundaram nagar,
3rd Extension, Periyar nagar
Kancheepuram, Kancheepuram District. ... Petitioner

vs.

The Assistant Commissioner (CT)
Kancheepuram Assessment Circle
Kancheepuram. ... Respondent

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorari, to call for the impugned proceedings of the respondent in TIN No.33221622247/2013-14 dated 24.10.2016 and its consequential recovery notice in TIN No.33221622247/2013-14 dated 20.01.2017 and quash the same as illegal and contrary to the provisions of the TNVAT Act, 2006.

For Petitioner : Ms.R.Hemalatha

For Respondent : Mr.Kanmani Annamalai
Additional Govt. Pleader (Tax)

ORDER

1.With the consent of counsels for the parties, the writ petition is taken up for hearing and final disposal.

2. By virtue of this writ petition, challenge is laid to impugned order dated 24.10.2016, which pertains to Assessment Year (AY) 2013-2014.

3.The respondent via the impugned assessment order has imposed a liability towards tax, on the petitioner, equivalent to a sum of Rs.95,847/- and, reversed the ITC, to the extent of Rs.7,927/-.

4.The petitioner, however, is aggrieved by the impugned assessment order, inasmuch as, it is his say that the objections along with relevant documents were not filed with regard to the defects pointed out in the pre- assessment notice dated 25.07.2016.

5.The submission of the petitioner, is that, the objections and the relevant documents were lodged with the respondent. In support of this submission, reliance is placed on a photo copy of the Letter Delivery Book.

6.I had noticed this submission in the proceedings held on 27.01.2017, when Mr.Annamalai, learned Additional Government Pleader, was directed to obtain necessary instructions in the matter, after examining the original Letter Delivery Book.

7.Mr.Annamalai, who has reverted with instructions, says that the objections and documents have been lodged in the office of the respondent.

7.1 He further says that, since, it was not brought to notice of the Assessing Officer/respondent, therefore, the objections and documents appended thereto, perhaps, may have not have been taken into account, while passing the impugned order.

8. Having regard to the aforesaid circumstances, as prayed, I am inclined to set aside the impugned assessment order with liberty to the respondent to redo the assessment, after taking into account the objections and documents filed by the petitioner, while passing a fresh assessment order.

8.1 The respondent will also afford a personal hearing to the petitioner. At the time of personal hearing, the petitioner will present before the respondent, the original documents, on which, he seeks to place reliance.

RAJIV SHAKDHER,J.

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8.2 Needless to say, that the order, if any, passed shall be a speaking order; a copy of which will be supplied to the petitioner.

9. The Writ Petition is disposed of in terms of the aforesaid directions.

10. Resultantly, the connected pending application is also closed. There shall, however, be no order as to costs.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

The Assistant Commissioner (CT)
Kancheepuram Assessment Circle
Kancheepuram.

+1cc to Mr.R.Hemalatha, Advocate SR.No.10785
+1cc to Special Government Pleader SR.No.10780

W.P.No.1891 of 2017
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SDR 15.03.2017