IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.11.2017
CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.29172 of 2017
and
W.M.P.No.31441 & 31442 of 2017

M/s.P.K.P.Feed Mills Private Limited,
Rep. By its Managing Director - P.K.Pounraj,
No.69, Adhiyaman Bye Pass Road,
Four Road, Dharmapurai - 636 701,
Dharmapurai District. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Dharmapuri,
Dharmapuri District. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records on the file of the respondent in its impugned proceedings made in TIN:33123284785/2013-14 dated 15.06.2017 quash the same as illegal and against provisions of the Act.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard S.Rajasekar, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate for the respondent. With the consent on either side, the Writ Petition is taken up for final disposal.

2.The learned Special Government Pleader appearing for the respondent accepted notice for the respondent on 15.11.2017 and took time to get instruction in the matter.

3.As a very short issue arose for consideration in the writ petition and as it appears that the respondent is yet to give written instruction, considering the fact that the order passed by the respondent dated 15.06.2017 suffers from an inherent and obvious error, this Court is inclined to dispose of the writ petition. The petitioner earlier came before this Court and filed W.P.No.30236 of 2015 challenging the assessment order for the year 2013-2014 under the provisions of the Tamil Nadu Value Added Tax Act. The said writ petition was disposed of, by order dated 27.06.2016 remanding the matter to the respondent for fresh consideration. The respondent thereafter issued notices, called upon the petitioner to produce Purchase Bills for 2013-2014, Sales Bills for 2013-2014 and Copy of Form WW. The respondent has been a very reasonable officer and he had issued three notices on the petitioner dated 20.03.2017, 05.05.2017 and 22.05.2017, yet, the petitioner ignored all the three notices and having left with no other option, confirmed the proposal and passed the assessment order on 15.06.2017. After which, the petitioner woke up from the deep sleep and rushed to the Officer along with an application under Section 84 of the Act. However, even at that point of time, the petitioner did not take appropriate care to produce the documents in proper format. The Form WW submitted by the petitioner was not attested, this clearly shows that the casual attitude of the dealer. However, the respondent committed one small mistake, instead of returning the Form WW, rejected it. In fact, the Commissioner of Commercial Taxes has issued circulars that whenever statutory Forms are found to be defective, it should be returned to the dealer, giving them an opportunity to rectify the defect. If this had been done, no error could be attributed to the impugned order dated 15.09.2017. Thus, only for such reason, this Court is inclined to entertain the petitioner's request despite the non cooperative attitude of the dealer.

4.For the above reasons, the Writ Petition is disposed of, by directing the respondent to return the defective Form WW, giving 15 days time to the petitioner to represent the same. If it is represented in the proper format, the respondent shall consider and redo the assessment in a proper manner. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Sgl
To
The Assistant Commissioner (ST),
Dharmapuri, Dharmapuri District.

+1cc to Special Government Pleader SR.No.82258
+1cc to Ms.R.Hemalatha, Advocate SR.no.82287

W.P.No.29172 of 2017

sm:12.12.2017