IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.08.2017
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.19747 of 2017
and
W.M.P.No.21332 of 2017

M/s.Global Leather Exports,
represented by its Partner
Mr.Shamshad Ahmed,
No.2/47, Kattur Sadyappan Street,
Periamet, Chennai-600 003. .. Petitioner

Vs

The Assistant Commissioner,
Periamet Assessment Circle,
No.10, Palaniappa Maaligai,
1st Floor, Greams Road,
Chennai-600 006. .. Respondent

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the impugned proceedings of the respondent in TIN/33080422337/2010-2011 dated 02.06.2017 and quash the same as passed as contrary to the provisions of the TNVAT Act and against the principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.K.Venkatesh,
Government Advocate

ORDER

Heard Mr.P.Rajkumar, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondent.

2.The petitioner, who is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 ("TNVAT Act" in short) is aggrieved by the order of assessment passed by the respondent under the said Act for the assessment year 2010-2011. It is seen that the respondent issued the revision notice on 14.03.2014 and the petitioner submitted their explanation on 25.03.2014 and I find that the objection is a very elaborate one. For more than two years, no orders were passed by the assessing officer and the impugned order came to be passed on 02.06.2017 which is a cryptic order, as the only ground on which the respondent has confirmed the proposal in the notice is by stating that the petitioner has not filed the purchase bills issued by the sellers to prove that the sellers have reported their sales to the Department and paid the tax dues.

3.The legal position as referred to by the petitioner in various decisions in the objections filed by them were not even considered. The delay of more than two years is fatal to the impugned proceedings. These are sufficient grounds to interfere with the impugned order. Accordingly, the writ petition is allowed and the impugned order is set aside and the matter is remitted to the respondent for fresh consideration who shall consider the petitioner's objection, afford an opportunity of personal hearing and redo the assessment by passing a speaking order on merits and in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

KM
To
The Assistant Commissioner,
Periamet Assessment Circle,
No.10, Palaniappa Maaligai,
1st Floor, Greams Road,
Chennai-600 006.

+1 cc to M/s.P.Rajkumar Advocate sr 55059
+1 cc to Special Govt Pleader taxes sr 55291

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