IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.19771 of 2017
and
W.M.P.No.21343 of 2017

Cadd Centre India Pvt.Ltd.,
represented by its Managing Director,
R.Parthasarathy,
No.5, P.S.Sivasamy Salai,
Mylapore, Chennai-600 004. .. Petitioner

Vs

1.The Commercial Tax Officer,
Luz Assessment Circle,
46, Kumarasamy Raja Salai,
Chennai-600 028.

2.The Appellate Deputy Commissioner (CT)
Chennai (East), C.T.Building (Annexe),
Greams Road,
Chennai-600 006. .. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records on the file of the second respondent herein in A.P.No.CST.53/2014 dated 13.07.2015, quashing the same, while directing the second respondent herein to consider the application dated 01.08.2015 filed under Section 84 of the TNVAT Act, 2006 read with Section 9(2) of the CST Act, 1956.

For Petitioner : Mr.N.Inbarajan

For Respondents : Mr.S.Kanmani Annamalai, AGP

ORDER

Heard Mr.N.Inbarajan, learned counsel for the petitioner and Mr.S.Kanmali Annamalai, learned Additional Government Pleader, appearing for the respondents.

2.With the consent of the learned counsel on either side, the main writ petition itself is taken up for final disposal.

3.The petitioner challenges the order passed by the second respondent dated 13.07.2015 by which the petition filed by the petitioner as against the order of assessment dated 19.12.2013 under the Central Sales Tax Act for the assessment year 2010-2011 was dismissed.

4.Though the petitioner has raised several grounds challenging the order passed by the appellate authority on merits, the petitioner would state that they would be satisfied if the second respondent is directed to consider their petition filed under Section 84 of the Tamil Nadu Value Added Tax Act, 2006 ("TNVAT Act" in short) dated 01.08.2015. In the said petition, the petitioner has averred that at the time of appearing, they furnished the original declarations in Form-C and Form-F and xerox copies of such declarations were presented, and the petitioner had produced the originals before the learned Departmental representative, who also verified the same. Therefore, it is submitted that they have filed declaration forms in original to the extent of Rs.47,39,789/- in so far as it relates to two inter-State sales covered under Section 8(1) of the Central Sales Tax Act, and Form-F declaration in so far as it relates to claim for exemption. It is pointed out that in the very order dated 13.07.2015 passed by the second respondent, it is stated that the petitioner has filed only the xerox copies of the declaration forms, but they have produced the original Form-C declaration and Form-F declaration to the extent of Rs.25,57,538/- and Rs.21,82,251/- which was also verified by the learned Departmental representative and therefore, it is submitted that this error may be rectified in the impugned order. Though this petition had been submitted on 01.08.2015 and received in the office of the second respondent, as could be seen from the endorsement in the Letter Delivery Book made on 24.08.201, the same has not been disposed of till date. The petitioner has also sent a reminder on 16.08.2016.

5.Admittedly, the second respondent is vested with sufficient powers to examine a petition filed under Section 84 of the TNVAT Act to see as to whether any error which is apparent on the face of the assessment order. Therefore, the proper course to be adopted by the second respondent is to consider the petition and take a decision on the same and by passing a reasoned order, and the petition cannot be kept indefinitely pending as it appears that only issue to be seen is whether the petitioner had produced the original Form-C and Form-F declarations before the learned Departmental representative, who is stated to have verified it. If the second respondent proposes to examine it by themselves, then the second respondent can direct the petitioner to produce the same. In any event, the petition filed under Section 84 of the TNVAT Act has to be disposed of on merits and in accordance with law.

6.In the light of the above, there will be a direction to the second respondent to consider the petitioner's petition dated 01.08.2015 and reminder dated 16.08.2016, afford opportunity of personal hearing and pass a reasoned order on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

7.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

KM

To

1. The Commercial Tax Officer,
   Luz Assessment Circle,
   46, Kumarasamy Raja Salai,
   Chennai-600 028.

2. The Appellate Deputy Commissioner (CT)
   Chennai (East), C.T.Building (Annexe),
   Greams Road,
   Chennai-600 006.

+1cc to Mr.N.Inbarajan, Advocate in sr.no.55430

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SV(CO)
NR 29/08/2017