IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2017

CORAM

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P. No. 14086 of 2007

M/s. Nandhi Spinnins Mills (P) Ltd.,
rep. by its Director N. Santhakumar,
17, Rajendra Nagar,
Udumalai Road,
Dharapuram, Erode District. ..Petitioner

Vs.

The Deputy Commercial Tax Officer,
Dharapuram Assessment Circle,
Dharapuram, Erode District. ..Respondent

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorari to call for the records of the respondent in his proceedings in TNGST No. 3020826/2001-2002 dated 12.05.2006 and quash the same as illegal.

For Petitioner :: Mr.S. Ramanathan
For Respondent :: Mr.K. Venkatesh
Govt. Advocate

O R D E R

Heard Mr.S. Ramanathan, learned counsel for the petitioner and Mr.K. Venkatesh, learned Government Advocate for the respondent.

2. The petitioner is aggrieved by the order of assessment passed by the respondent dated 12.05.2006 for the assessment year 2001-2002 under the provisions of TNGST Act, 1959. It appears that the respondent obtained some information from the Director General of Central Excise Intelligence, Chennai and the Commissioner of Central Excise, Salem, that the petitioner has suppressed taxable turnover as there was unaccounted sales of Cone Yarn. Notice was issued to the petitioner proposing to assess the turnover at 4% under Section 16(1)(A) of TNGST Act, 1950 and also proposed to levy penalty under Section 16(2) of the said Act. The petitioner submitted a reply, which was

received by the respondent on 15.03.2006 and requested for copy of the information, which is said to have been received by the respondent from the Central Excise Department. The respondent, therefore, should have provided necessary information, afforded further opportunity to the petitioner to give their objections and then proceeded to complete the assessment. Unfortunately, in a single line, the respondent has stated that the objections are overruled and confirmed the proposal in the notice dated 20.02.2006. The case on hand is a classic example as to how the assessment should not be completed. The respondent has clearly abdicated his statutory responsibility as an Assessing Officer. This is sufficient to set aside the impugned order. Accordingly, the writ petition is allowed and the impugned order is quashed. No costs.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

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To

The Deputy Commercial Tax Officer,
Dharapuram Assessment Circle,
Dharapuram, Erode District.

+1 CC to Mr.S. Ramanathan, Advocate sr 68812.

W.P. No. 14086 of 2007

RSI(CO)
sp(24/10/2017)