IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.08.2017

Coram

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.2397 of 2006
O.P.No.22 of 2004 (T)

Rasi Technitex (P) Ltd.,
No.533/4, Cuddalore Main Road,
Manivilunthan South Post,
Attur - 636 121. ...Petitioner

Vs.

The Deputy Commercial Tax Officer,
Attur (Town). ...Respondent

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records on the file of the respondent, in his proceedings, in Assessment No.3141087/1999-2000, dated 05.12.2003, and to set aside the same with a direction to the respondent to grant refund of Rs.3,18,806/- which are covered by statement in Form A.4 as per Section 4C and Rule 23 (2A) of the Tamil Nadu General Sales Tax Rules, 1959.

For Petitioner : Mr.N. Inbarajan

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

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

2. This Writ Petition, which was initially filed before the Tamil Nadu Taxation Special Tribunal, as Original Petition has been transferred to the file of this Court and re-numbered as Writ Petition No.2397 of 2006.

3. The petitioner has impugned the proceedings of the respondent, dated 05.12.2003, by which, the respondent refused to entertain the Application filed by the petitioner under

Section 55 of the Tamil Nadu General Sales Tax Rules, 1959 (TNGST Act) for rectification of the assessment order, dated 22.03.2001, for the assessment year 1999-2000. The reason assigned by the respondent is that, the time for preferring Appeal as against the assessment order is over, and therefore, the Petition cannot be accepted.

4. The view taken by the respondent is incorrect, because, Section 55 of TNGST Act does not prescribe any time limit. That apart, the Petition for rectification appears to have been filed not very belatedly, and in the Petition, the petitioner has pointed out certain errors, which are errors apparent on the face of record. This Court, being satisfied that the impugned order has been passed on untenable grounds, is inclined to interfere with the same. Accordingly, the Writ Petition is allowed and the impugned order is set aside, and the matter is remanded to the respondent for fresh consideration, who shall consider the Application filed by the petitioner under Section 55 of the TNGST Act, dated 15.11.2003, and afford an opportunity of personal hearing to the Authorized Representative of the petitioner, and pass orders on merits and in accordance with law. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sd

To

The Deputy Commercial Tax Officer,
Attur (Town)

+ 1 cc to the Special Government Pleader Sr.54975

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BR(CO)
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