BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.09.2017
CORAM:
THE HONOURABLE MR.JUSTICE T.RAJA
W.P.(MD) No.15106 of 2017
and
W.M.P.(MD)No.11908 of 2017

Tvl.S.S.Agencies,
Rep. by its Proprietor,
S.Mariappan,
S/o.Shanmugavel,
No.170-A [Upstairs],
Samy Sannathi Bazaar,
Tenkasi,
Tirunelveli District. .. Petitioner

Versus

1.The Additional Chief Secretary,
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Commercial Tax Officer,
Commercial Taxes Buildings,
Tenkasi. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for records pertaining to the impugned proceedings passed by the second respondent in TIN.33555681661/2015-16, dated 11.05.2017, based on the alleged electronically and mechanically generated mismatch details taken from the departmental web site and quash the same as wholly illegal, without jurisdiction and being contrary to the judgment of this Court reported in the batch of cases relating to mismatch and WEBSITE issues in the case of M/s.JKM Graphics Solutions Private Limited and others Vs. Commercial Tax Officer, Vepery Assessment Circle and others in W.P.No.105 of 2016, dated 01.03.2017.

For Petitioner : Mr.R.Narayanan
For Respondents : Mr.R.Karthikeyan
Additional Government Pleader

O R D E R

This Writ Petition is directed against the impugned proceedings for the year 2015-2016 passed under Section 27 of the Tamil Nadu Value Added Tax Act, 2006 [in short ''the TNVAT Act''], directing the petitioner to pay a sum of Rs.6,73,164/- towards tax and Rs.3,36,582/- towards penalty.

2.The learned counsel for the petitioner *inter alia* contended that the second respondent has passed the impugned proceedings without properly considering the reply given by the petitioner and also the documents filed by him as contemplated under the TNVAT Act. Secondly, it is contended that the second respondent ought not to have issued a revision notice, dated 29.09.2016, based on the mismatch report, which was electronically generated through the departmental Website and the same was objected and disproved by the Assessee. Thirdly, it is contended that for availing the Input Tax Credit, the petitioner has to produce the Tax Invoice of the selling dealer issued in the manner/format prescribed under the TNVAT Act and the TNVAT Rules. Finally, it is contended that when a revision notice, dated 29.09.2016 was issued by the second respondent, on receipt of the same, the petitioner requested to furnish invoice-wise particulars for the alleged wrong claim of Input Tax Credit, but the second respondent simply negatived the same and wrongly came to the conclusion that the proposal made should be confirmed warranting payment of huge amount of Rs.6,73,164/- towards tax and Rs.3,36,582/- towards penalty. Lastly, it is contended that the petitioner has got all the relevant documents, therefore, the said documents are enough to disprove the conclusion reached by the respondents, which is impugned herein, hence, it is pleaded, a direction may be issued to the respondents to re-do the exercise on the basis of the documents, that would be filed by the petitioner.

3.In reply, Mr.R.Karthikeyan, learned Additional Government Pleader appearing for the respondents submitted that the second respondent is prepared to undertake fresh exercise on the basis of fresh documents, which are going to be placed by the petitioner, however, this will be subject to payment of the disputed tax amount.

4.This Court placing on record the submission of the learned Additional Government Pleader, directs the petitioner to deposit 15% of the disputed tax amount within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the second respondent shall re-do the exercise without being influenced by the impugned order. Accordingly, the impugned order passed by the second respondent, dated 11.05.2017, is set aside and the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

1.The Additional Chief Secretary,
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Commercial Tax Officer,
Commercial Taxes Buildings,
Tenkasi.

+1cc to Mr.R.NARAYANAN,Advocate,SR.76039

W.P.(MD) No.15106 of 2017
01.09.2017

SMN2
KK/SKN RSK/SAR 4/04.09.2017/ 3P- 4C