BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.2301 of 2017

and W.M.P.(MD) No.1894 of 2017

Tvl.Murugan Granite and Export,
represented by its Partner,
P.Subramanian, aged about 53 years,
S/o. Periyasamy,
No.11-17, Dharmanarayanan Chettiar Street,
Karaikudi - 630 001,
Sivagangai. ... Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
O/o. The Principal and Special Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.
2.The Commercial Tax Officer,
Karaikudi Assessment Circle,
Commercial Tax Office,
No.50/52, Jawahar Street,
Karaikudi - 630 001. ... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd Respondent to rectify the error in his order dated 28.11.2016 by considering petitioner's representation dated 30.12.2016.

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

O R D E R

Mr.R.Karthikeyan, the learned Additional Government Pleader takes notice for the respondents.

2.The prayer in the writ petition is for a Writ of Mandamus, directing the 2nd Respondent to rectify the error in his order dated 28.11.2016, by considering petitioner's representation dated 30.12.2016.

3.By consent of both sides this writ petition is taken up for final disposal.

4.The petitioner though had given necessary documents as claimed by the second respondent, the same were not considered as if that documents, which were produced by the petitioner were not legible. Subsequently, the petitioner was able to obtain clean or certified copies of the documents. However, the second respondent by order dated 28.11.2016, had issued final assessment order. Therefore, the petitioner had submitted a detailed representation to the respondents on 30.12.2016 under Section 84 of TNVAT Act.

5.The learned counsel for the petitioner would state that if the details given including the original invoice bearing Nos.1 to 155 and other connected documents are taken into account, the assessment order dated 28.11.2016, can very well be revised. The learned counsel for the petitioner would further submit that such power is available to the second respondent under Section 84 of the TNVAT Act and in exercise of the power, the needful can be done by the second respondent in the interest of justice.

6.The learned Additional Government Pleader would state that no doubt the second respondent is having power to review the order under Section 84 of the Act, provided, if there is any error apparent on the face of the record and it is for the second respondent to decide as to whether the order of assessment passed already against the petitioner has to be revised in view of the subsequent filing of documents (legible copies) along with representation submitted on 30.12.2016.

7.Considering the said submissions made by both the counsel, since the prayer in the writ petition is for a direction to the second respondent to consider the said representation of the petitioner dated 30.12.2016, along with set of documents filed before the second respondent authority within the meaning of Section 84 of the TNVAT Act, this Writ Petition is disposed of with the following directions:

The respondent is directed to take into account the representation submitted by the petitioner dated 30.12.2016, along with document (legible copies of the documents) and decide the same by way of revision under Section 84 of the TNVAT Act and pass necessary orders thereon on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. Till such exercise is completed the order dated 28.11.2016 issued by the second respondent shall not be given effect.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

sj
To
1.The Commissioner of Commercial Taxes,
O/o. The Principal and Special Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Commercial Tax Officer,
Karaikudi Assessment Circle,
Commercial Tax Office,
No.50/52, Jawahar Street,
Karaikudi - 630 001.

+1CC to Mr.L.Veeramanikandan, Advocate Sr.No.7585
+1CC to Spl.Government Pleader Sr.No.7914

GJM/CM/MSA/21.2.17-3p-5c

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