IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 27.03.2018
CORAM
THE HONOURABLE Mr. JUSTICE M.DURAISWAMY
W.P.No.7071 of 2018 &
W.M.P. Nos.8764 & 8765 of 2018

M/s. Ram Cutting Dies
Rep. by it Proptx. P.Mangaiyar Thilagam
68-B/1, P.M. Kollai Street
Ambur, Vellore District .. Petitioner

v.

The Assistant Commissioner (CT)
Ambur Assessment Circle
Ambur, Vellore District .. Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the respondent in his proceedings made in TIN 33534262368/2007-2008, dated 14.12.2015 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan
For Respondent : Mr.M.Hariharan
Additional Government Pleader (T)

ORDER

Mr.M.Hariharan, learned Additional Government Pleader (Tax) takes notice for the respondent. By consent, the main writ petition itself is taken up for disposal at the admission stage itself.

2. The petitioner has filed the above writ petition to issue a Writ of Certiorari to call for the records on the file of the respondent in his proceedings dated 14.12.2015 and to quash the same.

3. It is the case of the petitioner that the respondent issued a notice dated 21.02.2018 stating that assessment order has been passed for the year 2007-08 and the petitioner was in arrears of tax of Rs.1,56,953/-. The petitioner informed the respondent that she has not received any order or demand notice. The respondent informed the petitioner that the order has been served on the Security staff. The petitioner searched for the order and found a xerox coy of the order. In the order it was mentioned that exemption claimed on the turnover of Rs.12,55,674/- could not be verifiable. Notice dated 14.09.2015 was issued proposing to disallow the claim of exemption and the petitioner has not filed any reply and hence the proposal was confirmed by disallowing the exemption. The petitioner verified

the returns and found that the sale was made to M/s.ITARES Shoes Private limited, which is 100% EOU. The sale was an exempted sale. Since the notice dated 14.09.2015 and the assessment order were not brought to the knowledge of the petitioner, she could not take immediate steps. Subsequently the petitioner has obtained the certificate from the 100% EOU dealer in proof of exemption claimed. The claim of exemption is supported by certificates issued by 100% EOU.

4. The learned counsel appearing for the petitioner submitted that the respondent had passed the impugned order without considering the certificates sought to be produced by the petitioner.

5. Mr.M.Hariharan, learned Additional Government Pleader (Tax) appearing for the respondent submitted that an opportunity may be given to the petitioner on payment of atleast 20% of the demand made by the respondent.

6. The learned counsel appearing for the petitioner is also agreeable to pay 20% of the demand made by the respondent as a condition precedent for giving an opportunity to the petitioner to produce the certificates before the respondent.

7. In view of the submission made by the learned counsel on either side, since the petitioner could not produce the certificates before the respondent, I am of the view that in the interest of justice, an opportunity can be given to the petitioner to produce all the certificates and other documents before the respondent. Accordingly, the impugned order dated 14.12.2015 is set aside on condition that the petitioner paying 20% of the tax as computed by the respondent, within a period of two weeks from the date of receipt of a copy of this order and on compliance, the matter will be remitted back to the respondent for fresh consideration. The respondent is directed to give an opportunity to the petitioner to submit their documents and on receipt of the same, decide the matter afresh, after affording an opportunity of personal hearing to the petitioner .

With these observations, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Rj

To
The Assistant Commissioner (CT)
Ambur Assessment Circle
Ambur, Vellore District

+1cc to M/s.S.Ramanathan, Advocate Sr.no.23031
+1cc to Special Government Pleader Sr.No.24093

NRI(CO)
sm:9.4.2018

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