IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2018

CORAM

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

W.P.No.3139 of 2018 &
W.M.P.No.3855 of 2018

J.Veeramani ...Petitioner

vs.

Commercial Tax Officer
Panruti (Rural) ...Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the files of the respondent in his proceeding being impugned order TIN No.33374501852/2014-15, dated 12.01.2017 and quash the same as arbitrary, invalid, illegal and direct the respondent to refund a sum of Rs.98,925/-.

For Petitioner : Mr.T.V.Lakshmanan
For Respondent : Mr.M.Hariharan
Addl. Govt. Pleader (T)

ORDER

Heard Mr.T.V.Lakshmanan, learned counsel appearing for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader accepting notice for the respondents.

2. The petitioner has filed the above writ petition challenging the order of assessment dated 12.01.2017 under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the assessment year 2014-15.

3. The ground on which the impugned order has been challenged is by contending that the already an assessment has been made for the relevant year and an order under section 22 (2) of the TN VAT Act has been passed determining the taxable turnover of Rs.72,25,619/-. This deemed assessment has been completed based on a manual return filed by the petitioner.

4. Admittedly, no record is placed before this court to show that the turnover has been assessed. However, the respondent has passed the impugned assessment order on the ground that the petitioner has filed the manual returns in Form I.

5. This submission is accepted in the counter affidavit stating that the petitioner has not filed any e-returns and hence, dealers are ordered to compulsorily e-file their returns within their due dates in terms of circular instruction dated 25.05.2015.

6. Such being the position, as of now, the respondent has acted upon the manual returns and determined the taxable turnover and passed an order to the said effect on 20.07.2015. Therefore, if at all, there should a revision of assessment, then, there should be material to revise the assessment figures reflected in the impugned assessment order identical to that of the deemed assessment order dated 20.07.2015, therefore, the respondent cannot revise the earlier order as done by them.

7. Thus, for the above reasons, the writ petition is allowed and the impugned order dated 12.01.2017 is set aside. However, this will not prevent the authorities to proceed further in accordance with law. In the light of the above, attachment of the the petitioner's bank account shall stand lifted forthwith and whatever being attached by way of attachment can be sought to be adjusted in the future demand by making revisions to the respondent. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True copy//

Sub Assistant Registrar

Rj

To

The Commercial Tax Officer
Panruti (Rural)

+1cc to Mr.T.V.Lakshmanan, Advocate SR.No.25595
+1cc to Special Government Pleader (Taxes) SR.No.26020

W.P.No.3139 of 2018 &
W.M.P.No.3855 of 2018

BR(CO)
GN(26/04/2018)