IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2018

CORAM

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

W.P.No.8102 of 2018 &
W.M.P. No.10080 of 2018

Tvl. Eriez Magnetics India Pvt. Ltd
Rep. by its General Manager
Mr.Ujwal Kadri
No.1/1, Ambattur Vanagaram Main Road
Athipet, Chennai - 58 ...Petitioner

v.

The State Tax Officer
Pammal Assessment Circle
No.32, Sripuram 2nd Street
Chrompet,Thiruneermalai Road
Chennai - 44. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the files of the respondent in CST: 895054/2015-16 dated 06.03.2018 and quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to the law.

For Petitioner : Mr.D.Vijayakumar

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

ORDER

Heard Mr.D.Vijayakumar, learned counsel appearing for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader accepting notice for the respondent. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956. The petitioner challenges the order passed by the respondent dated 06.03.2018, which is an assessment order under the provisions of the Central Sales Tax Act for the assessment year 2014-15.

3. The learned counsel for the petitioner submitted that since there was delay in obtaining Form 'C' declarations and Form 'H' declarations, the Assessing Officer has completed the assessment and disallowed the turnovers and assessed the petitioner to tax. However, as of now, the

petitioner is in possession of all the 'C' declarations and Form 'H' declarations, as well as the debit notes and credit notes and prays that an opportunity may be granted to the petitioner to go before the Assessing Officer and produce the statutory forms and documents.

4. The learned Additional Government Pleader appearing for the respondent submitted that in spite of sufficient opportunity, the petitioner did not produce the declaration forms and the necessary documents.

5. It cannot be disputed by the respondent that the Commissioner of Commercial Tax has issued a circular to the effect that if 'C' declarations and Form 'H' declarations, are produced by the dealer even after the completion of the assessment, they can be accepted and the turnover should be revised accordingly. Furthermore, the courts have held that the declaration forms produced by the dealers are with a view to grant concession to the dealers and the rights of the dealer should not be foreclosed on technicalities. The circular and the order passed by this Court in several cases comes to the aid of the petitioner.

6. For the above reasons, the writ petition is disposed of by directing the petitioner to treat the impugned order as a show cause notice, submit their reply by appearing before the respondent within a period of fifteen days from the date of receipt of a copy of this order. The petitioner shall produce all declaration forms and other records to substantiate their case and if the same are produced, the respondent shall consider the declaration forms and records and redo the assessment in accordance with law, after giving an opportunity of personal hearing to the petitioner and till orders were passed, no coercive action should be initiated against the petitioner for recovery of tax and penalty as quantified in the impugned assessment. No costs. Consequently, connected miscellaneous petition is closed.

06.12.2017

Index : Yes/No

Rj

To

The State Tax Officer
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T.S.SIVAGNANAM,J

Rj

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