In the High Court of Judicature at Madras

Dated : 25.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.10537 of 2018 & WMP.No.12489 of 2018

M/s.M.G.Power System, rep.by
its Managing Partner Mr.J.Mubarak ...Petitioner

Vs

1.The Commercial Tax Officer,
Chidambaram I Assessment
Circle, Chidambaram.

2.The Commercial Tax Officer,
Enforcement-I, Vridhachalam. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the first respondent in TIN 33474442627/2013-14 dated 27.3.2018 and and quash the same.

For Petitioner : Mr.V.Sundareswaran

For Respondent : Mrs.G.Dhana Madhri, GA

COMMON ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has challenged the order of assessment dated 27.3.2018 for the year 2013-14 under the provisions of the Tamil Nadu Value Added Tax Act, 2006.

3. Earlier, the petitioner approached this Court challenging the assessment order for the very same year as well as for the year 2014-15 in W.P.Nos.33645 and 33646 of 2016 contending that adequate opportunity was not granted to the petitioner and that no personal hearing was afforded. The said contention was tested for its correctness and this Court found that the petitioner was not granted an opportunity of personal hearing. Accordingly, the

said writ petitions were allowed by a common order dated 26.9.2016 and the matters were remanded to the first respondent herein for a fresh consideration. On such remission, the first respondent issued the notice dated 05.5.2017 on the ground that there was no explanation for the purchase omission of Rs.3 lakhs, for which, the petitioner gave a reply dated 22.5.2017 stating that while entering details in the e-returns, there was a typographical error. The petitioner, while mentioning the purchase value of the goods taxable at 14.5%, had mentioned a sum of Rs.2,79,834/- instead of Rs.5,79,834/-. Since the returns were electronically processed, input tax credit for Rs.2,79,834/- alone was granted to the petitioner, which being a sum of Rs.40,576/-. However, in annexure I filed by the petitioner, the purchase value has been mentioned as Rs.5,79,834/-. The petitioner sought to explain the same. However, the first respondent appeared to have not fully convinced with the explanation and confirmed the proposal in the notice dated 05.5.2017.

4. On a careful consideration of the returns as well as annexure I filed by the petitioner, it is seen that there is every possibility of a typographical error having occurred while giving the purchase value. Furthermore, the petitioner had not availed the input tax credit for the sum of Rs.5,79,834/- though their returns in annexure I contain the said figure. Therefore, this discrepancy has to be verified by the Assessing Officer by going through the documents as well as the purchase invoices. The first respondent should redo the assessment in accordance with law.

5. For the above reasons, the writ petition is allowed, the impugned order is set aside and the matter is remanded to the first respondent for a fresh consideration in the light of the observations contained in the preceding paragraphs after verifying the purchase invoices and examining the entire matter, since the petitioner claims that it is a typographical error while entering details in the e-returns for the period June 2013. It is made clear that the first respondent shall issue a notice for personal hearing, hear the petitioner and redo the assessment on merits and in accordance with law. No costs. Consequently, the connected WMP is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

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To

1.The Commercial Tax Officer, Chidambaram I Assessment Circle, Chidambaram.

2.The Commercial Tax Officer, Enforcement-I, Vridhachalam.

+1cc to Mr.V.Sundareswaran, Advocate, sr.no.30811

+1cc to the Special Government Pleader, sr.no.31446

WP.No.10537 of 2018&
WMP.No.12489 of 2018

SG(CO)

RRK(24/05/18)