IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 13.03.2018
CORAM
THE HON'BLE MR. JUSTICE M.DURAISWAMY
W.P.No.5596 of 2018 &
W.M.P.Nos.6926 & 6927 of 2018

M/s.Kaseem Steel Traders
Rep. by its Proprietor Mr.M.K.Safiullah
No.62/62A, Hospital Road
Villupuram - 605 602
.. Petitioner

v.

1. The Commercial Tax Officer
   Villupuram - I Assessment Circle
   Villupuram

2. The Assistant Commissioner (State Taxes)
   Villupuram - I Assessment Circle
   Villupuram

3. The Branch Manager
   Indian Bank
   No.7, Nehruji Road
   Villupuram- 605 602
.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the impugned proceedings of the 1st respondent in 33154701405/2013-2014, dated 15.07.2015 and quash the same as passed in violation of the principles of natural justice and also contrary to the provisions of the TNVAT Act.

For Petitioner : Mr.P.Rajkumar

For Respondent : Ms.G.Dhanamadhri
Government Advocate (T)
- for R1 & R2

ORDER

Ms.G.Dhanamadhri, learned Government Advocate (Tax) takes notice for the respondents 1 and 2. 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 impugned proceedings of the 1st respondent dated 15.07.2015 for the assessment year 2013-14 and to quash the same.

3. It is the case of the petitioner that the 1st respondent in the impugned order has reversed the input tax credit on the turnover discount received by them from its suppliers invoking section 19(20) of the Tamil Nadu Value Added Tax Act, which is clearly without authority of law and also contrary to the provisions of the Tamil Nadu Value Added Tax Act. According to the petitioner, in spite of filing the petition dated 03.07.2015, the 1st respondent, being a quasi-judicial authority, ignored to consider the objections. Further, out of the total disputed tax of Rs.5,50,945/-, the petitioner had paid tax of Rs.1,87,736/- and the balance disputed tax of Rs.3,63,209/- remains unpaid.

4. The learned counsel appearing for the petitioner submitted that the petitioner is willing to make some more payment towards the disputed tax and in such an event, an opportunity may be given to the petitioner to put-forth their case before the 1st respondent and the 1st respondent may be directed to consider the petitioner's objections and decide the matter afresh.

5. Ms.G.Dhanamadhri, learned Government Advocate (Tax) appearing for the respondents 1 and 2 submitted that on payment of disputed tax amount, an opportunity may be given to the petitioner to put-forth their case and the 1st respondent may be directed to decide the matter afresh, after considering the objections dated 03.07.2015 filed by the petitioner.

6. In view of the submissions made by the learned counsel on either side, since the petitioner's objections dated 03.07.2015 was not considered by the 1st respondent, the impugned order dated 15.07.2015 is liable to be set aside. Accordingly, the impugned order dated 15.07.2015 is set aside on condition that the petitioner paying a sum of Rs.90,000/- [Rupees ninety thousand only] towards the balance disputed tax of Rs.3,63,209/-, within a period of one week from the date of receipt of a copy of this order. On payment of the said sum of Rs.90,000/-, the 1st respondent is directed to decide the matter afresh, after taking into consideration the objections dated 03.07.2015 filed by the petitioner, on merits and in accordance with law. It is open to the petitioner, to submit fresh objections before the 1st respondent within a period of two weeks from the date of making payment of Rs.90,000/-. On payment of the said sum of Rs.90,000/-, the attachment made by the 2nd respondent shall stand raised.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Rj
To

1. The Commercial Tax Officer
   Villupuram - I Assessment Circle
   Villupuram

2. The Assistant Commissioner (State Taxes)
   Villupuram - I Assessment Circle
   Villupuram

+1 cc to Mr.P.Rajkumar Advocate sr 18632
+1 cc to Special Govt Pleader sr 19340

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aa15/03/2018