In the High Court of Judicature at Madras

Dated : 26.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.10598 of 2018
& WMP.Nos.12563 & 12564 of 2018

G.K.S.Exporters rep. by its Proprietor ...Petitioner

Vs

The Assistant Commissioner (CT), Ambur. ...Respondent

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 respondent in order in TIN No.33074264078/2013-14 dated 31.8.2016 and quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondent : Mr.M.Hariharan, AGP

ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner, which is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, is aggrieved by the impugned assessment order for the year 2013-14.

3. Learned counsel for the petitioner points out that though, in the impugned order, it has been stated that notice has been served on the petitioner and that the petitioner filed their objections, the petitioner has not received any such notice nor filed any objections. It is further pointed out that in a single line, the respondent stated that the objections were overruled while passing the impugned assessment order.

4. This Court finds from the preamble to the impugned order in the reference column that there is no reference to the dealer's reply. Had the dealer sent a reply, the respondent could have referred to the date, on which, the reply was received and extracted the gist of the objections raised by the dealer. Thus, it can be safely presumed that no reply was given

by the petitioner.

5. Furthermore, the learned counsel for the petitioner points out that the impugned order itself states that the registration of the other end dealers was canceled with retrospective effect and that cannot be a ground to reverse the input tax credit availed by the petitioner.

6. In my considered view, these issues can be considered by the respondent, for which purpose, this Court deems it appropriate to remand the matter for a fresh consideration.

7. Accordingly, the writ petition is disposed of by directing the petitioner to treat the impugned assessment order as a show cause notice and submit their objections within a period of 15 days from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall fix a date for personal hearing and if the petitioner requires any clarification or details or documents, the same shall be furnished and after providing an effective opportunity, the respondent shall redo the assessment in accordance with law. Till the above exercise is completed and fresh orders are passed, no coercive action shall be initiated against the petitioner for recovery of tax and penalty as quantified in the impugned assessment order. No costs. Consequently, the connected WMPs are closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To
The Assistant Commissioner (CT), Ambur.

+1 CC to Mr.Adithya Reddy, Advocate sr 31407.

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SP(16/05/2018)