IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 23.08.2018
CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.21536 of 2018
and
WMP.No.25291 of 2018

M/s.Sharoff Syndicate
Rep. by its Manager
No.17-B, Gandhiji Road
Mayiladuthurai - 609 001. ... Petitioner

vs.

The Assistant Commissioner (CT)
Mayiladuthurai - I Assessment Circle
Mayiladuthurai. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent and quash the order passed by the respondent in TIN 33264042472/2016-2017 dated 26.02.2018 and direct the respondent to pass fresh orders as per law without relying the proposals received from Enforcement Wing and to provide an opportunity of personal hearing to the petitioner in this case.

For Petitioner : Mr.C.Baktha Siromoni
For Respondent : Mrs.G.Dhana Madhri
Government Advocate (Tax)

O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate (Tax) takes notice for the respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The present writ petition is filed challenging the order of assessment dated 26.02.2018 passed in respect of the assessment year 2016-2017.

3. The learned counsel for the petitioner submitted that the Assessing Officer has erroneously taken into consideration the opening stock of goods as on 01.04.2015 and purchases of goods from 01.04.2015 to 31.03.2016 for making assessment in respect of the assessment year 2016-2017. Therefore, he contended that the Assessing Officer is not justified in taking certain

figures, which are in connection with the previous assessment year. He also submitted that personal hearing sought for was not afforded to the petitioner.

4. Even though such contentions are raised in this writ petition, it is not in dispute that the petitioner has already filed an application dated 02.04.2018 under Section 84 of the Tamil Nadu Value Added Tax Act, for rectification of the mistake.

5. The learned Government Advocate (Tax) for the respondent submitted that the said application is still pending and the same will be considered and appropriate orders will be passed on merits and in accordance with law.

6. Considering the above stated facts and circumstances, more particularly, the fact that the petitioner has already filed an application under Section 84 of the TNVAT Act, as stated supra, before the Assessing Officer and in view of the fact that the said application is still pending, this Court is of the view that it is for the petitioner to pursue such application, by raising all the contentions as raised in this writ petition. Accordingly, this writ petition is disposed of, by directing the respondent to consider the application under Section 84 of the TNVAT Act filed by the petitioner on 02.04.2018 and pass orders on the same on merits and in accordance with law, after giving due opportunity of personal hearing to the petitioner. Such exercise shall be done by the respondent within a period of six weeks from the date of receipt of a copy of this order. Till an order is passed by the Assessing Authority as stated supra, no coercive steps shall be taken against the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mk
To
The Assistant Commissioner (CT)
Mayiladuthurai - I Assessment Circle
Mayiladuthurai.

+1cc to the Government Pleader(T), S.R.No.57703

W.P.No.21536 of 2018

rk(co)
cs/07/09/18