In the High Court of Judicature at Madras

Dated : 05.2.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.2375 of 2018
& WMP.No.2888 of 2018

Tvl.Rasandik Auto Components
Pvt. Ltd., rep.by its Manager ...Petitioner

Vs

The Assistant Commissioner (CT),
Hosur South, Hosur. ...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 CST No.1115889/2016-17 dated 21.9.2017 and quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondent : Ms.G.Dhana Madhri, GA

ORDER

Ms.G.Dhana Madhri, learned Government Advocate accepts notice for the respondent. Heard both. Since the issue involved in this writ petition lies in a narrow compass and the error committed while completing the assessment is apparent on the face of the record, the writ petition itself is taken up for final disposal even at the stage of admission.

2. The petitioner, which is a registered dealer on the file of the respondent under the provisions of the Central Sales Tax Act, 1956 and the Tamil Nadu Value Added Tax Act, 2006, was issued with the notice dated 27.7.2017 for the assessment year 2016-17 under the provisions of the Central Act proposing to revise the turnover. The only reason for proposing to reverse the turnover was with regard to non production of Form C declarations and the total turnover, which was sought to be revised, was Rs.34,89,65,052/-. The petitioner produced Form C declarations after receipt of the said notice and they were taken into consideration. The respondent, while completing the assessment, by the impugned order, had given credit to the Form C declarations and charged the petitioner to tax at 2% for the

sales turnover of Rs.34,28,57,344/- and taxed the petitioner at a higher rate of tax at 14.5% in respect of the turnover of Rs.1,00,16,084/-, which was not covered by Form C declarations. However, the respondent included one more component in the impugned assessment order with regard to the sale returns to the tune of Rs.39,08,376/-.

3. It is evidently clear that to that extent, the petitioner did not have opportunity to file their objections. The respondent also issued a demand notice dated 06.12.2017 to the petitioner. Further, after receipt of the impugned order, the petitioner submitted a representation dated 02.1.2018 to the respondent requesting to revise the assessment and also enclosed sufficient documents relating to sales return. This representation is now pending. Thus, it is clear that in so far as it relates to the revision of assessment under the head 'sales return' is concerned, the petitioner did not have sufficient opportunity.

4. Accordingly, the writ petition is partly allowed, the revision of turnover under the head 'sales return' is set aside and the matter is remanded to the respondent for a fresh consideration. The respondent shall reckon the representation of the petitioner dated 02.1.2018 as their objections to the said proposal, afford an opportunity to the authorized representative of the petitioner and redo the assessment in accordance with law under the said head. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT),
Hosur South, Hosur.

+1cc to Mr.Adithya Reddy, Advocate SR.No.8372
+1cc to the Special Government Pleader (Taxes) SR.No.8972

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WMP.No.2888 of 2018

GN(22/02/2018)