In the High Court of Judicature at Madras

Dated : 05.2.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.2404 of 2018 & WMP.Nos.2921 & 2922 of 2018

M/s.Golden Hawk, rep.by
its Partner N.Sivagnanam ...Petitioner

Vs

The Deputy Commercial Tax Officer
(Main), Gudiyatham (East) Assessment
Circle, Gudiyatham, Vellore District. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the file of the respondent in his impugned proceedings made in TIN No.33254246129/2015 -16 dated 31.8.2017 and quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mrs.R.Hemalatha
For Respondent : Ms.G.Dhana Madhri, GA

ORDER

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

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. The petitioner is aggrieved by the impugned assessment order for the year 2015-16.

3. Prior to passing the impugned order, the petitioner was served with two notices dated 10.5.2017 and 25.5.2017 proposing to revise the turnover for the relevant assessment year. In the said notices, necessary particulars have been furnished as to why the input tax credit availed by the petitioner was proposed to be reversed, which appears to be based on the details, which have been secured from the Departmental website. Unfortunately, the petitioner did not submit their objections within the time permitted. The respondent, having waited for a substantial period of time i.e. for more than three months, passed the impugned assessment order, as the petitioner failed to cooperate

with the assessment proceedings. However, considering the fact that the revision is based on mismatch details found in the returns filed by the petitioner and that of the selling dealer and the fact that though the impugned assessment order has been passed in August 2017, till date, recovery could not be effected, this Court deems it proper to grant one opportunity to the petitioner to go before the Assessing Officer.

4. Accordingly, the writ petition is disposed of with a direction to the petitioner to pay 15% of the disputed tax within a period of two weeks from the date of receipt of a copy of this order. If the petitioner complies with the said condition, they will be entitled to treat the impugned order as a show cause notice and submit their objections within a period of seven days therefrom. On receipt of the objections, the respondent shall afford an opportunity of personal hearing and redo the assessment in accordance with law. It is needless to add that the benefit of this order will not enure to the petitioner, if the petitioner fails to comply with the condition of payment of 15% of the disputed tax within the time stipulated. No costs. Consequently, the connected WMPs are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To
The Deputy Commercial Tax Officer (Main), Gudiyatham (East) Assessment
Circle, Gudiyatham, Vellore District.

+1 cc to M/s.R.Hemalatha Advocate sr 8317
+1 cc to Special Govt Pleader sr 8969

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