IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.01.2018

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

W.P.No.17502 of 2017

and

W.M.P.No.18985 of 2017

Tvl.Atherya Retail Private Limited,
rep.by its Director,
Mr.Prasanna Rajagopalan ...Petitioner

Vs.

The Assistant Commissioner (CT),
Valluvarkottam Assessment Circle,
No.10, Palaniyappa Maligai,
Greams Road,
Chennai - 600 006. ...Respondent

Prayer: Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, to call for records of the respondent herein in TIN/33461503775/2014-15, dated 08.06.2017 and quash the same.

For Petitioner : Mr.A.N.R.Jayaprathap

For Respondent : Mrs.G.Dhanamadhri
Government Advocate

ORDER

Heard Mr.A.N.R.Jayaprathap, the learned counsel appearing for the petitioner and Mrs.G.Dhanamadhri, the learned Government Advocate for the respondent. Since the pleadings are complete, this Writ petition is taken up for disposal.

2. The petitioner, who is a registered dealer on the file of the respondent, under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) and the Central Sales Tax Act,1956 (CST Act) is before this Court, challenging the order of assessment passed under the provisions of the TNVAT Act, for the assessment years 2014-15.

3. The challenge to the impugned proceedings is on ground of violation of principles of natural justice, in as much as, the respondent did not appreciate the scope of documents produced by the petitioner, though they have admitted that the petitioner has produced 62 invoice copies.

4. Counter affidavit proceeds on the basis that the petitioner did not cooperate in the assessment proceedings, did not produce the bank statements and did not produce the purchase invoice details to substantiate their claim that they were doing job works.

5. The petitioner is engaged in the business of tailoring, primarily for ladies as well as in readymade garments. Their case appears to be that, they are carrying out job works, for which, they produced copies of two sample invoices along with a reply affidavit, dated 18.12.2017. However, these documents ought to have been placed before the respondent in the course of assessment proceedings.

6. Taking note of the admission of the respondent, in paragraph No. 5 of the counter affidavit that, 62 invoices were produced by the petitioner, the respondent should call upon the petitioner to produce supportive documents, and then complete the assessment. Though the respondent takes a stand that the petitioner did not cooperate in the proceedings, this has been denied in the reply affidavit filed by the petitioner, dated 18.12.2017.

7. Be that as it may, this Court is of the view that the assessment should be redone by considering all the documents and by directing the petitioner to produce all the documents, since the endeavor of the respondent should be to ensure that, correct rate of tax is levied and collected, as the assessment order should not be paper orders.

8. Thus, for the above reasons, this Writ Petition is allowed and the impugned order is set aside and matter is remanded to the respondent for fresh consideration, who is directed to fix a date of personal hearing of the petitioner and along with the said intimation, the respondent shall list out the documents, which the petitioner has to produce and on perusal of the same and after hearing the petitioner, re-do the assessment in accordance with law. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

The Assistant Commissioner (CT),
Valluvarkottam Assessment Circle,
No.10, Palaniyappa Maligai,
Greams Road,
Chennai - 600 006.

+1cc to Mr.A.N.R.Jayaprathap Advocate SR.No.4009

+1cc to the Special Government Pleader SR.No.4644

W.P.No.17502 of 2017

SDR 03.02.2018