In the High Court of Judicature at Madras

Dated : 13.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.15008 of 2018 & WMP.No.17764 of 2018

M/s.Fives India Engineering & Projects Pvt. Ltd., rep.by its Vice President-Finance NO.7,South Boas Road, T.Nagar, Chennai-600017. ...Petitioner

Vs

The State Tax Officer, Pondy Bazaar Assessment Circle, Chennai. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for records of the impugned order of re-assessment in CST/873164/2010-11 dated 24.4.2018 from the files of the respondent and quash the same.

For Petitioner : Ms.Aparna Nandakumar
For Respondent : Mr.V.Haribabu, AGP

ORDER

Heard both.

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 and the Central Sales Tax Act, 1956, challenged the impugned assessment order under the Central Enactment for the assessment year 2010-11.

3. The respondent completed the assessment mainly on the ground that the petitioner had not produced any credit notes to establish that they were sales returns as shown by them in their CST returns.

4. The learned counsel for the petitioner accepts that it is a mistake committed by the petitioner in the sense that the petitioner, in the returns filed under the Central Enactment, had mistakenly shown it as 'sales return' instead of 'unfructified sales'.

5. If the petitioner has sufficient documents to establish the same, it is well open to the petitioner to produce the same to the satisfaction of the Assessing Officer.

6. The Assessing Officer, in the written instructions given to the Additional Government Pleader, reiterates the stand taken in the impugned order.

7. For the above reason, the writ petition is disposed of by directing the petitioner to treat the impugned assessment order as a show cause notice and file their reply by establishing the fact that the transaction was an unfructified sale or in other words, the sale, which never took place and it is not a sales return. If this is established by the petitioner by producing necessary documents, the respondent shall not insist upon the credit notes from the petitioner and redo the assessment in accordance with law. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

RS

To

The State Tax Officer,
Pondy Bazaar Assessment Circle,
Chennai.

+1cc to Mrs.Aparna Nandakumar, Advocate, S.R.No.46308,
+1cc to the Special Government Pleader,Taxes, S.R.No.46643.

WP.No.15008 of 2018&
WMP.No.17764 of 2018

VSN-II(CO)
BM 01/08/2018