In the High Court of Judicature at Madras

Dated : 25.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.15177 of 2018 &
WMP.No.18026 of 2018

Akeyem Sons, rep.by Partner ...Petitioner

Vs

The Commercial Tax Officer,
Broadway Assessment Circle,
19, Thambu Chetty Street,
Chennai-1. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent and set aside the impugned order in TIN 33350040154/2012-13 dated 25.5.2018 in respect of reversal of ITC u/s 19(5)(c) of the TNVAT Act 2006 with consequential penalty u/s 27(4) of the TNVAT Act 2006 with a direction to re-do the assessment based on the documentary evidences available with the petitioner by affording an opportunity of personal hearing.

For Petitioner : Mr.Md.Ghafoor Ur Rahman
For Respondent : Mr.M.Hariharan, AGP

ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved by the action of the respondent in not granting an opportunity of personal hearing before finalizing the impugned assessment.

3. The Statute mandates that an opportunity of personal hearing should be granted. The issue involved in this case is with regard to applicability of Section 19(5)(c) of the Tamil Nadu Value Added Tax Act, 2006.

4. The petitioner has placed reliance on the decision in the case of Everest Industries Ltd. Vs. State of Tamil Nadu [(2017) 100 VST 158]. As against the said decision, the State has already preferred an appeal and the matter is now pending before the Hon'ble Division Bench.

5. The learned counsel for the petitioner would submit that so far as the said issue is concerned, the petitioner is willing to go before the Assessing Officer, place all the documents, which are in their custody and establish that there are entitled to input tax credit, which has been availed by them. 6. Considering the said submission, the writ petition is disposed of by directing the petitioner to treat the impugned proceedings as a show cause notice and submit their additional reply within a period of one week from the date of receipt of a copy of this order along with supportive documents. On receipt of the additional reply, the respondent shall afford an opportunity of personal hearing to the petitioner and pass a reasoned order on merits and in accordance with law within a period of two weeks from the date of receipt of such additional reply. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//
Sub Assistant Registrar

To

The Commercial Tax Officer, Broadway Assessment Circle, 19, Thambu Chetty Street, Chennai-1.

+1cc to Mr.Md.Ghafoor Ur Rahman, Advocate, sr.41056(13/07/2018)

+1cc to to the Spl government Pleader sr.40229(13/07/2018)

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GSP(03/07/2018)