In the High Court of Judicature at Madras

Dated : 28.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.15835 of 2018 & WMP.No.18833 of 2018

Tvl.Jai Sriram Automobiles, rep.
by its Proprietor K.Mathiyazhagan ...Petitioner

Vs

The Deputy Commercial Tax
Officer, Namakkal (Town). ...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 files of the respondent in Va.Vi.No.33273124313/2013-14 dated 27.11.2017 and quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondent : Mrs.G.Dhana Madhri, GA

ORDER

Mrs.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 before this Court challenging the assessment order dated 27.11.2017 under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the year 2013-14.

3. The issue involved in this case pertains to mismatch of the details in between Annexure I of the petitioner and Annexure II of the other end dealers as culled out by the Assessing Officer from the official website of the Department. Though several transactions were noted in the annexure to the revision notice dated 27.9.2017, without full particulars, the petitioner has been able to reconcile those transactions except for five. In respect of those five transactions, the enclosures along with the said revision notice did not give the sellers' tax payers identification numbers, invoice numbers, etc.

4. However, the respondent completed the assessment by passing the impugned order, after which, the petitioner sought

for revision of assessment by submitting a representation on 12.3.2018. After pointing out the legal position, the petitioner stated that they were enclosing the connected tax invoices received from the five dealers towards purchases effected from them in support of their claim of input tax credit as specified under Section 19(1) of the said Act. But, the respondent passed another order dated 20.3.2018 stating that there were no grounds to invoke the power under Section 84 of the said Act.

5. In my considered view, if the petitioner was able to reconcile majority of the transactions and only five transactions are remaining, one more opportunity could have been granted to the dealer, especially when the dealer has produced copies of the tax invoices. This opportunity is required to be granted because the turnover is sought to be revised based on the details secured by the Department from their official website. Therefore, an element of enquiry is required to be done as pointed out by this Court in the case of JKM Graphics Solutions Private Limited Vs. CTO, Vepery Assessment Circle [reported in (2017) 99 VST 343]. Thus, this Court is of the view that the matter can be re-examined by the Assessing Officer under Section 84 of the said Act.

6. For the above reasons, the writ petition is allowed, the order dated 20.3.2018 is set aside and the matter is remanded to the respondent for a fresh consideration. The respondent shall exercise powers under Section 84 of the said Act, hear the petitioner in person, peruse the documents that may be produced, make an enquiry into the matter and then pass a reasoned order on merits and in accordance with law. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

The Deputy Commercial Tax Officer, Namakkal (Town)

+1cc to Mr.R.Senniappan, Advocate, S.R.No.15835

+1cc to the Spl Government Pleader, S.R.No.42028

WP.No.15835 of 2018&
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(CO)
GSP(06/07/2018)