In the High Court of Judicature at Madras

Dated : 06.07.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.25154 of 2009
&
M.P.No.2 of 2015

M/s.Sri Mounika Traders
Rep. by its Proprietor – A.Vigneswara Murthy
744, Uthukuli Road
Kunnathur- 638 103
Erode District ... Petitioner

Vs

The Assistant Commissioner (CT)
Perundurai
Erode District ...Respondent

Writ petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari calling for the records on the file of the respondent in TIN No.33222923405/2007-08 dated 19.11.2009, quash the same as illegal and contrary to the provisions of the TNVAT Act, 2006 and the order passed by this Court in W.P.No.17076 of 2006 dated 24.08.2009.

For Petitioner :Mr.S.Rajasekar
For Respondent :Ms.G.Dhanamadhri
Government Advocate

ORDER

Heard Mr.S.Rajasekar, learned counsel for the petitioner and Mr.G.Dhanamadhri, learned Government Advocate, appearing for the respondent.

2. The petitioner has challenged an order of assessment dated 19.11.2009 for the Assessment year 2007-08 under the provisions of the Tamil Nadu Value Added Tax Act, 2006. The respondent has rejected the revised return filed by the petitioner on the ground that it has been filed beyond the financial year and the reasons assigned by the dealer that there was a clerical mistake is not a satisfactory reason to accept the revised return and accordingly overruled the objection filed by the dealer and confirmed the proposal made earlier.

3. Unfortunately, the respondent did not take note of the positive and pointed direction issued by this Court in W.P.No.17076 of 2009, wherein the petitioner had challenged a notice dated 28.07.2009 proposing to revise the assessment under Section 22(4) of the Tamil Nadu Value Added Tax Act, 2006. The Court, after taking note of Section 22(6)(a) of the Act pointed out that the expression "correct and complete return" and the power conferred upon the Assessing Authority to carry out re-assessment, are all indications that a revised return is not allergic to the provisions of the Tamil Nadu Value Added Tax Act. Therefore, the respondent was directed to keep an open mind and examine the revised return along with any documents and objections submitted by the petitioner, as otherwise the very assessment order passed on 27.02.2009 without taking note of the revised return may become vulnerable. In spite of such positive direction/observation, the respondent has rejected the revised return for certain reasons, which are unsustainable. The observation made in the preceding paragraph is sufficient to set aside the impugned order.

In the result, the writ petition is allowed and the impugned order is set aside and the matter is remanded to the respondent for fresh consideration with a direction to the respondent to accept the revised return filed by the petitioner and after affording an opportunity of personal hearing to the petitioner, redo the assessment. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gpa

To

The Assistant Commissioner (CT)
Perundurai
Erode District.

+1cc to Ms.R.Hemalatha, Advocate, S.R.No.44349.
+1cc to The Special Government Pleader(Taxes),S.R.No.44178.

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NA(CO)
BM 19/07/2018