In the High Court of Judicature at Madras

Dated : 13.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.17502 of 2018
W.M.P.No.20781 of 2018

Tvl.Entech Consultancy Bureau
(Madras) Private Ltd.,
rep.by its Managing Director
Mr./B.Venkat Kaushik,
No.66, (Old No.44) 3rd Main Road,
Kasthuriba Nagar,
Adyar, Chennai-600 020 ...Petitioner

Vs

The Assistant Commissioner (ST),
Adyar Assessment Circle,
46, Greenways Road,
Chennai-600 028 ... Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of Writs of certiorari calling for the records on the files of the first respondent in TIN/33580961867/2013-14, dated 12.06.2018 and quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to the law.

For Petitioner :Mr.D.Vijayakumar
For Respondent :Mr.V.Haribabu,A.G.P.

ORDER

Heard Mr.D.Vijayakumar, learned counsel for the petitioner and Mr.V.Hari Babu, learned Additional Government Pleader, who accepts notice on behalf of the respondent. With the consent of either side, the writ petition itself is taken up for final 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, is aggrieved by the assessment order dated 12.06.2018 for the assessment year 2013-14.

3.On a perusal of the impugned order, it is seen that the Assessing Officer has considered the objection filed by the petitioner and completed the assessment. However, no opportunity of personal hearing was granted.

4.The learned counsel for the petitioner submitted that the petitioner were promptly adjusting the excess Input Tax Credit for the tax due under both the Acts in their monthly returns and the Respondent has admitted that the ITC was adjusted for the out put tax payable under the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act. However, in the impugned order, the respondent has stated that the Input Tax Credit has lapsed to Government.

5.In my considered view this issue is purely factual and cannot be adjudicated in a writ petition. Therefore, the petitioner has to necessary avail the remedies under the Act. Since the revision of assessment was proposed by the respondent under Section 27 of the Tamil Nadu Value Added Act, 2006, the provision mandates that an opportunity of personal hearing should be granted. Only on that ground, this Court is inclined to give one more opportunity to the petitioner.

6.Accordingly, the writ petition is disposed of by directing the petitioner to treat the impugned proceedings as show cause notice and submit their further objection within a period of one week from the date of receipt of a copy of this order. On receipt of the objection, the respondent shall fix a date for personal hearing and consider the submissions made by the petitioner and pass appropriate orders on merits and in accordance with law. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

msk

To
The Assistant Commissioner (ST),
Adyar Assessment Circle,
46, Greenways Road,
Chennai-600 028
+1cc to Mr.D.Vijaya Kumar, Advocate SR.No.46047
+1cc to Special Government Pleader(Taxes) SR.No.

WP.No.17502 of 2018

GJII(CO)
GN(26/07/2018)