In the High Court of Judicature at Madras

Dated : 01.8.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.19401 of 2018 & WMP.Nos.22816 & 22817 of 2018

M/s.AGC Networks Limited, rep.
By its Authorized Signatory
Mr.S.S.Nageshwaran ...Petitioner

Vs

The Assistant Commissioner (ST),
Valluvarkottam Assessment Circle,
No.10, Palaniappa Maaligai,
Greams Road, Chennai-6. ...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 in TIN: 33361501696/2015-16 dated 07.6.2017 and the consequential garnishee notice in RC.No.826/2014/A3 dated 25.1.2018, quash the same as illegal and without jurisdiction under the Tamil Nadu Value Added Act, 2006 and further direct the respondent to follow the administrative circular issued in Lr.No.VAT.Cell/30800/2007(VCC.No.1003) dated 08.8.2007 and grant exemption on sales made to SEZ.

For Petitioner : Mr.V.Sundareswaran
For Respondent : Mrs.G.Dhana Madhri, GA

ORDER

Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is before this Court challenging an assessment order only in respect of one issue namely 'exempted sales - documents not produced'.

3. The respondent proposed to revise the turnover on several grounds including the ground that though the petitioner reported exempted turnover in Form I monthly returns and was requested to produce relevant documents for claiming exemption, they did not produce the same. The respondent proposed to treat the turnover as local sale and levy higher rate of tax at 14.5% originally. The petitioner sent a representation dated 23.5.2017 requesting 15 days' time to submit their documents. Subsequently, another

representation was sent on 29.5.2017 wherein the other three issues were explained and so far as the exempted sale was concerned, another 15 days' time was sought to produce original certificates. However, Having waited for a reasonable time, as the petitioner did not promptly respond, the Assessing Officer completed the assessment and levied tax at 5% as against the proposal at 14.5%.

4. It appears that the petitioner came into possession of the documents much after passing the impugned assessment order and much after the bank account was attached. Immediately, the petitioner rushed to the office of the respondent by filing a representation dated 20.7.2018 requesting to revise the assessment order dated 07.6.2017 by enclosing the documents. This representation dated 20.7.2018 has been received by the office of the respondent on the same day i.e. 20.7.2018.

5. The respondent has informed the learned Government Advocate that since the documents are voluminous, he would require reasonable time to go through the same and that without giving reasonable time to the respondent, the petitioner rushed to this Court.

6. The respondent is well justified in his observation. However, the reason for approaching this Court is due to attachment of bank account of the petitioner. If the documents are perused by the respondent and if it is found that the sales have been effected to SEZ units, the respondent can pass appropriate orders. In the considered view of this Court, while granting time to the respondent to consider the petitioner's representation dated 20.7.2018, there should be some relief granted to the petitioner by way of lifting the bank attachment.

7. In the light of the above, the writ petition is disposed of by directing the respondent to consider the petitioner's representation dated 20.7.2018 filed under Section 84 of the Tamil Nadu Value Added Tax Act, 2006, afford an opportunity of personal hearing, peruse the documents filed by the petitioner and take a decision on merits and in accordance with law. Since the documents are now being filed by the petitioner, the attachment of the petitioner's bank account shall be lifted forthwith and the State Bank of India, Gandhi Nagar Branch, Gujarat may be intimated by the petitioner accordingly. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

RS

To

The Assistant Commissioner (ST),
Valluvarkottam Assessment Circle,
No.10, Palaniappa Maaligai,
Greams Road,
Chennai-6.

+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.52280.
+1cc to the Spl.Government Pleader, S.R.No.52532.

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NRJK(CO)
BM 02/08/2018