IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2018

C O R A M

THE HON'BLE Mr.JUSTICE K.RAVICHANDRABAABU

W.P.No.19571 of 2018
and
WMP No.23001 of 2018

M/s.Karvembu & Co,
Rep. by its Partner,
T.C.Shanmugasundaram,
No.44, Erode Road,
Muthur,
Kangeyam 638 105. ...Petitioner

vs

The State Tax Officer,
Kangeyam Assessment Circle,
Kangeyam. ...Respondent

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records of the respondent pertaining to the impugned order dated 30.05.2018 passed in TIN:33403083938/2013-14 and quash the same and further direct the respondent to give proper opportunity to the petitioner before passing order under Section 22(4) of the TNVAT Act.

For petitioner : Mr.B.Raveendran
For Respondents : Mrs.G.Dhana Madhri
Government Advocate (T)

O R D E R

The petitioner is aggrieved against the order of assessment dated 30.05.2018 passed in respect of the Assessment Year 2013-14. Consequently, they seek for a direction to the respondent to give proper opportunity to the petitioner before passing an order under section 21(4) of Tamil Nadu Value Added Tax Act.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent.

3.The petitioner assessee has chosen to challenge the order of assessment by raising very many grounds on merits, with which this court, at this stage, is not inclined to go into and express any view on the same since it is for the next fact finding authority viz., the appellate authority to do such exercise. However, one of the objections raised by the petitioner, by way of filing an additional affidavit dated 13.08.2018, is that the impugned order of assessment referred to a wrong TIN No.33403083938/2013-14, whereas the actual TIN Number allotted to the petitioner is TIN No.33423082666. Therefore, the learned counsel for the petitioner contended that even though this Court is not inclined to entertain the writ petition, the petitioner is otherwise also not in a position to file any appeal before the Appellant Authority challenging the order of assessment since it contains a wrong Tin Number.

4. The learned Government Advocate for the respondent is not disputing the fact that the impugned assessment order referred to a wrong Tin Number, when the correct Tin Number allotted to the petitioner is TIN No.33423082666.

5. Perusal of the notice of proposal dated 27.04.2018 issued on the petitioner would also indicate that a wrong TIN Number was quoted in the place of the correct TIN Number as stated supra. Therefore, I find some justification on the part of the petitioner in not filing the objection before the respondent on receipt of the notice of proposal. As this court is not going into the merits of the assessment order and in view of the fact that the same was passed without an explanation furnished by the petitioner, this court is of the view that the writ petition can be disposed of in the following terms, which would protect the interest of both parties:

(a) The petitioner and the respondent shall treat the impugned order of assessment as the fresh notice of proposal, as if the same is issued with TIN No.33423082666.

(b) The petitioner shall give their reply within a period of two weeks from the date of receipt of a copy of this order with payment of 15% of the tax demand, in order to show their bonafide.

(c) On receipt of such reply and payment, the respondent Assessing Officer shall pass fresh order of assessment, after affording an opportunity of personal hearing to the petitioner as well.

(d) Such exercise shall be done by the respondent within a period of four weeks from the date of receipt of the explanation/reply filed by the petitioner.

No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

The State Tax Officer,
Kangeyam Assessment Circle,
Kangeyam.

+1cc to Mr.B.Raveendran, Advocate, S.R.No.55754

+1cc to the Spl Government Pleader, S.R.No.55743

W.P.No.19571 of 2018

SAI(CO)
GSP(03/08/2018)