IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.12553 of 2006 & WPMP No.14134 of 2006

Sri Veera Traders,
rep. by its Proprietor,
No.63-1, Duraisamy Main Road,
Pallapatty, Salem-9. ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Leigh Bazaar Assessment Circle, Salem. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings in CST Asst. No.707084/2003-04, quash the order dated 09.11.2005 made therein and further direct the respondent to consider the claim of exemption under Section 6-A of the CST Act in the light of the circular issued by the Principal Commissioner of Commercial Taxes in Acts Cell - 4/69980/2000 dated 23.11.2000.

For Petitioner : Mr.S.Raveekumar

For Respondent : Mrs.G.Dhanamadhri,
Government Advocate

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O R D E R

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

2.The petitioner challenges an order of assessment under the provisions of the Central Sales Tax Act, 1956 for the assessment year 2003-04. The petitioner was assessed to higher rate of tax on the ground that they had not produced transit pass as required under Section 44(A)(2)(a) of the Tamil Nadu General Sales Tax Act, 1959 (hereinafter referred to as “the TNGST Act”). It is seen that the Principal Commissioner of

Commercial Taxes issued a circular dated 23.11.2000, much prior to the impugned assessment order being passed and ordered that all the officers including the Checkpost Officer may be informed that transit pass need not be insisted upon for the movement of consignment sales/branch transfer from Tamil Nadu to other States.

3.It is further stated that for the goods moved from one State to another, passing through the State, the system of issuing transit pass at the first checkpost and surrendering of the same at the last checkpost will continue as per Section 44-A (1) of the TNGST Act. Therefore, it was ordered that category (2) transit pass referred to in paragraph 1 of the said circular is not to be issued. If the said circular is applied to the case on hand, then the only conclusion that could be arrived at is that the impugned reassessment is not tenable.

4.With regard to non filing of returns at the appropriate time as mentioned in the impugned order, it is seen that there was no proposal in the revision notice and without any proposal, the assessing officer could not have rendered such finding. Thus, the impugned reassessment is held to be without jurisdiction and not sustainable in law.

Accordingly, this writ petition is allowed and the impugned order is quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-)

//True Copy//

Sub Assistant Registrar

abr

To

The Deputy Commercial Tax Officer,
Leigh Bazaar Assessment Circle, Salem.

+1cc to Mr.S.RAVEEKUMAR, Advocate, S.R.No. 4060
+1cc to the Government Pleader, S.R.No. 4643

W.P.No.12553 of 2006

VGII(CO)
TR(14/02/2018)