IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.01.2018

Coram

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.19384 of 2013
and
M.P.No. 1 of 2013

Sri Siva Timber Depot,
rep. by its Partner S.Govindarajan ...Petitioner

Vs.

The Commercial Tax Officer,
Mannargudi - 614 001,
Tiruvarur District. ...Respondent

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records of the respondent, in TIN No.33163861234/2006-07/ (01.01.2007 to 31.03.2007) dated 23.04.2013, which was served on the petitioner on 19.06.2013, and to quash the same.

For Petitioner : Mr. K. Soundararajan

For Respondent : Mr.M. Hari Haran
Additional Government Pleader

O R D E R

Heard Mr. K. Soundararajan, the learned counsel appearing for the petitioner and Mr.M. Hari Haran the learned Additional Government Pleader for the respondent.

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 (TNVAT Act) has filed this Writ Petition, challenging the assessment order, dated 23.04.2013, passed under the provisions of the TNVAT Act for the assessment year 2006-07.

3. The petitioner's contention is that, for the first time, in the impugned order, the respondent states that the petitioner has obtained C forms from the Office of the respondent, it is evident that the petitioner has purchased the goods from other States.

4. The learned counsel appearing for the petitioner has invited the attention of this Court to the four unused C forms, i) 666382, 666383, 666384 and 666385, and the respondent, while issuing the revision notice, dated 16.07.2012, did not make such observation. If he has done so, the petitioner would have appeared before the Authority and surrendered the four unused C forms.

5. The Court is inclined to accept the submission of the learned counsel appearing for the petitioner, because, the revision notice does not contain such allegation, and for the first time, in the impugned order of assessment, the same has been made. Therefore, the impugned order is held to be in violation of principles of natural justice. However, considering the facts and circumstances of the case, this Court is of the opinion that the following order would meet the ends of justice :-

i) This Writ Petition is disposed of, by directing the petitioner to treat the impugned assessment order as show cause notice and submit their objections within a period of 30 days from the date of receipt of a copy of this order. Along with the objection/reply, the petitioner can submit the original unused C Forms and on receipt of the objection, the respondent shall afford an opportunity of personal hearing, and redo the assessment in accordance with law, after examining all issues, as pointed out by the petitioner.

ii) Till orders are passed, no coercive action shall be initiated against the petitioner, as the petitioner had the benefit of the interim stay, since July, 2013.

iii) However, there shall be no order, as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

The Commercial Tax Officer,
Mannargudi - 614 001,
Tiruvarur District.

+ 1 cc to Mr. K. Soundararajan Advocate,SR.5644

+ 1 cc to The Special Govt.Pleader, SR.5779

Writ Petition No.19384 of 2013

lrs(co)
nr 14/02/2018