IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.41134 of 2016
&
W.M.P.No.35125 of 2016

M/s.Rajnarayan Textiles Private Limited
"Rajnarayan Towers, 70 Race Corse Road
Coimbatore - 18
Rep. by its Director T.Nagappan ... Petitioner

Vs.

The Deputy Commissioner (CT)(FAC)
Fast Track Assessment Circle - II
Coimbatore - 641 018 ...Respondent

Prayer: Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records relating to the order and notice of demand in Form O dated 31.07.2015 and consequential notices dated 24.08.2016 and 14.10.2016 issued by the respondent in respect of the petitioner's TIN No.33771882438/2012-13 for the Assessment year 2012-13 and quash the same.

For Petitioner : Mr.Palani Selvaraj

For Respondents : Mr.M.Hariharan
Additional Government Pleader

O R D E R

Heard Mr.Palani Selvaraj, learned counsel for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader appearing on behalf of the respondent.

2. Though a request is made by the learned Additional Government Pleader to grant further time to get written instructions from the respondent, this Court is not inclined to accept the request on account of the repeated adjournments on the same ground for nearly two years. Therefore, this Court

proceeded to decide the matter on merits and heard the submission of the learned counsel for the petitioner and learned Additional Government Pleader in great length.

3. The petitioner is aggrieved by a demand notice reversing the Input Tax Credit to the tune of Rs.1,55,222/-.

4. The undisputed facts are that the assessment under the provisions of Central Sales Tax Act for the Assessment year 2012-13 was concluded on 24.06.2015 under Section 22(2) of the Act. After the assessment was completed, a notice was issued to the petitioner on 31.07.2015 demanding Rs.1,55,222/- and also stated that the petitioner have not reversed the Input Tax Credit availed by them in respect of the interstate sales of Hank yarn.

5. Firstly, the impugned notice dated 31.07.2015 is devoid of jurisdiction, because the assessment having been completed on 24.06.2015 cannot be re-opened in the manner done by the respondent by straight away issuing a demand notice. The petitioner, on receipt of the notice sent a reply on 11.08.2015 pointing out that they have already made reversal of Input Tax Credit under Section 19(12) of the TNVAT Act on the CST and TNVAT Turnover of Rs.8,95,65,604/- and the Input Tax Credit earned is Rs.12,89,743/- and the Input Tax Credit reversal for CST Hank yarn sales of Rs.1,52,50,155/- and TNVAT Hank Yarn sales of Rs.2,45,62,611/- Rs.2,75,859/-, the net Input Tax Credit availed is Rs. 10,13,884/- and once again the question of reversal of Input Tax Credit on the CST and TNVAT Hank yarn sales does not arise. The petitioner enclosed the entire statement of accounts to substantiate their plea. However, without reference to the said reply, once again the respondent issued the impugned notice dated 24.08.2016 for which the petitioner sent another reply and without referring to both the replies, the respondent issued the impugned notice dated 14.10.2016.

6. Thus, it is evidently clear that the impugned proceedings are outcome of total non-application of mind apart from being without jurisdiction. As pointed out earlier, assessment could not have been reopened in the manner done by the respondent by issuing a demand notice, especially when the respondent in the impugned notice dated 31.07.2015 accepts that CST Assessment has been completed by order dated 24.06.2015, but the respondent failed to take note of the replies given by the petitioner that they have already reversed the Input Tax Credit to the tune of

Rs. 2,75,859/- and after reversal, the net availed Input Tax Credit is Rs.10,13,884/ and the petitioner cannot be compelled once again to reverse Input Tax Credit on the said amount. Thus, for the above reasons, the impugned notices are unsustainable in law.

In the result, the writ petition is allowed and the impugned order dated 31.07.2015 and the impugned demand notices dated 24.08.2016 and 14.10.2016 are quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

The Deputy Commissioner (CT)(FAC)
Fast Track Assessment Circle - II
Coimbatore - 641 018

+1cc to Mr.Palani Selvaraj, Advocate sr.no.37249
+1cc to Special Government Pleader(Taxes) in sr.no.37658

W.P.No.41134 of 2016 &
W.M.P.No.35125 of 2016

nr 26/06/2018