IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.04.2018

Coram

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

Writ Petition Nos.9572 and 9573 of 2018

and

W.M.P.No.11478 of 2018

Tvl.S.S.Engineering Entrepreneurs,
Rep. by its Proprietor A.Mani,
No.6/3, Jayammal Street,
Shenoy Nagar, Chennai - 30. ...Petitioner in both W.Ps.

Vs.

The Commercial Tax Officer (CT)/
State Tax Officer [ST],
Kilpauk Assessment Circle,
No.f-50, First Avenue, Anna Nagar (East),
Chennai - 102.
...Respondent in both W.Ps.

Prayer:

Writ Petitions, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records on the files of the respondent in CST/691732/2006-2007 and 2007-2008 dated 25.05.2011 and 14.06.2011 respectively and quash the same being illegal, invalid, without Jurisdiction and violated the principles of natural justice and contrary to the law and direct the respondent to accept the petitioner's representations dated 28.03.2012 and 12.04.2018.

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For Petitioner in both W.Ps. : Mr.D.Vijayakumar

For Respondent in both W.Ps. : Mr.M.Hariharan
Additional Government Pleader

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COMMON ORDER

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

2. The petitioner has filed these Writ Petitions, challenging the assessment orders passed by the respondent under the provisions of the Central Sales Tax Act, 1956 (CST Act) for the years 2006-2007 and 2007-2008.

3. The reason for challenging the assessments, which were passed in the year 2011 is on the ground that, the respondent has issued demand notice for the said years for the reason that the petitioner has not produced Form 'C' Declarations, and therefore, liable for higher rate of tax.

4. The learned counsel appearing for the petitioner submitted that, files were produced for the relevant years before the Assessing Officer and, all of a sudden, the impugned demand have been raised and the petitioner was shocked to know that the respondent was not aware that Form 'C' Declarations have already been submitted.

5. To ascertain the factual position, the learned Additional Government Pleader appearing for the respondent was directed to get instructions from the respondent/Assessing Officer, who has promptly given written instructions, dated 20.04.2018, wherein, it is stated as follows:-

> " For the remaining years of 2006-07, and 2007-08, the petitioner had accepted the non-submission of the Form C and E1 Declarations and stated that he filed the Declarations covering 95% of the turnover along with his representation letter, dated 28.03.2012. Scrutiny of the letter, dated 28.03.2012 revealed that he had said to be filed the declarations on 28.03.2012 to the then Commercial Tax Officer, Kilpauk Assessment Circle, wherein, no acknowledgment of receipt of declarations and no signature of the petitioner (A.Mani, CEO of the petitioner) available in the letter, dated 28.03.2012. "

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6. Thus, the assessment files do not contain Form 'C' Declarations and therefore, the Assessing Officer cannot be faulted. However, to complete the assessment in a proper manner, the petitioner can be given an opportunity to produce original Form 'C' Declarations, which are in their possession.

7. In the result, these Writ Petitions are disposed of, by directing the petitioner to file a Petition under Section 84 of the Tamil Nadu Value Added Tax Act, 2006, along with original Form 'C' Declarations within one week from the date of receipt of a copy of this order. On receipt of the same, the respondent shall afford an opportunity of personal hearing to the petitioner and consider the Form 'C' Declarations and pass appropriate orders on merits and in accordance with law. Till orders are passed in terms of the above direction, recovery proceedings shall remain stayed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Commercial Tax Officer (CT)/
State Tax Officer [ST],
Kilpauk Assessment Circle,
No.f-50, First Avenue, Anna Nagar (East),
Chennai - 102.

+1 CC to Mr.D.Vijayakumar Advocate Sr.No.29421

+1 CC to Government Pleader, High Court, Chennai Sr.No.30076

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SSV(CO)
KP(11/05/2018)

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