IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.25168 of 2018
and
W.M.P.No.29239 of 2018

Tvl.Rajarani Exports
Represented by its proprietor
Door No.52, Sooriparai Bypass Road,
Villarasam patti, Erode - 638 107. ... Petitioner

Vs

The Assistant Commissioner (ST),
Chithode Circle, Erode. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a WRIT OF CERTIORARIFIED MANDAMUS, calling for the records of the Respondent in notice in TIN No.33113002084/2012-13 Na.Ka.No.1088/2018/A3 dated 24/08/2018 and quash the same and direct the Respondent to dispose of the application dated 17.07.2018 filed under Section 84 of the TNVAT Act, 2006 before taking any recovery proceedings against the petitioner.

For Petitioner : Mrs.D.Naveena
For Respondent : Mr.Master Ganesh,
Government Advocate (Tax)

O R D E R

Mr.Master Ganesh, learned Government Advocate (Tax) takes notice for the respondent. By consent of the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the demand notice dated 24.08.2018, calling upon the petitioner to pay a sum of Rs.3,59,272/- being the tax arrears in respect of assessment year 2012-2013. The grievance of the petitioner before this Court as against the impugned demand notice is that, when the petitioner has already filed an application under Section 84 of the Tamil Nadu Value Added Tax Act, 2006 dated 17.07.2018 and

the same was received by the Assessing Officer on the same day itself, without disposing the said application, the Assessing Officer is not justified in issuing the impugned demand.

3. Heard both sides.

4. It is seen that in respect of assessment year 2012-2013, the respondent has passed an order of assessment on 07.06.2018. It is further seen that the petitioner has filed an application under Section 84 of the TNVAT Act on 17.07.2018 and admittedly, the said application is still pending. In the mean time, the impugned demand is issued. Needless to state that the respondent before passing an order in the said application filed under Section 84 of the TNVAT Act, is not justified in issuing the impugned demand. At the same time, this Court is not expressing any view on the merits of the assessment as well as the grounds raised in the application filed under Section 84 of the TNVAT Act, as it is for the respondent to consider and decide the same on merits and in accordance with law.

6. Accordingly, this writ petition is disposed of, only by directing the respondent to dispose the application dated 17.07.2018 filed under Section 84 of the TNVAT Act, on merits and in accordance with law, after giving due opportunity of hearing to the petitioner, within a period of six weeks from the date of receipt of a copy of this order. Till an order is passed by the respondent as stated supra in the said application, the impugned demand shall be kept in abeyance. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

krk/mk

To

The Assistant Commissioner (ST),
Chithode Circle, Erode.

+1cc to Mr. Adithya Reddy, Advocate, S.R.No. 65942
+1cc to the Special Government Pleader(Taxes), S.R.No. 65945

W.P.No.25168 of 2018

GN(03/10/2018)