IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.25690 of 2018
and
W.M.P.No.29871 of 2018

Tvl.Jothi Steel,
Represented by its Proprietor,
Pukkiravar, Villupuram District - 606 204.
... Petitioner

Vs.

The Commercial Tax Officer (Addl)
Kallakurichi, Villupuram District - 606 202.
... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the respondent to consider and dispose of the petitioner's representation dated 25.07.2018 under Section 84 of the TN VAT Act before initiating any coercive steps against the petitioner for recovery.

For Petitioner : Mr.Adithya Reddy

For Respondent : M/s.G.Dhana Madhri, Government Advocate (Tax)

O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate (Tax) takes notice for the respondent and by consent of the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is seeking for a mandamus, directing the respondent to consider and dispose the application dated 25.07.2018 filed under Section 84 of the Tamil Nadu Value Added Tax Act, 2006, before initiating any coercive steps against the petitioner for recovery of dues.

3. Heard both sides.

4. It is seen that the respondent passed an order of assessment dated 12.05.2017 in respect of assessment year 2015-2016. It is further seen that the petitioner filed an application for rectification, under Section 84 of the Tamil Nadu Value Added Tax Act, 2006, on 25.07.2018 and that the said application is still pending before the respondent. The grievance of the petitioner before this Court is that, without considering the said application, the respondent is resorting to recover the proceedings.

5. The learned Government Advocate (Tax) for the respondent, on the other hand, contended that the very application under Section 84 of the TNVAT Act, 2006, was filed only after issuing the recovery notice and therefore, the petitioner is not justified in making a complaint against the Assessing Officer before this Court. However, she is not disputing the fact that the application filed by the petitioner under Section 84 of the TNVAT Act, 2006 was within time and that the said application is still pending.

6. Therefore, considering the above stated facts and circumstances, this Court is of the view that the ends of justice would be met, if the respondent is directed to dispose of the application of the petitioner filed under Section 84 of the TNVAT Act, 2006, without loss of further time, since the order of assessment itself was passed as early as on 12.05.2017.

7. Accordingly, without expressing any view on the merits of the assessment and the contentions raised by the petitioner in the application filed under Section 84 of the TNVAT Act, 2006, this writ petition is disposed of, only with a direction to the respondent to consider the said application dated 25.07.2018 filed under Section 84 of the TNVAT Act, 2006 and pass orders on the same on merits and in accordance with law, after giving due opportunity of hearing to the petitioner within a period of three weeks from the date of receipt of a copy of this order. Till an order is passed by the respondent as stated supra, no coercive steps shall be taken against the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

krk/mk

To

Commercial Tax Officer (Addl)
Kallakurichi, Villupuram District - 606 202.

+1cc to M/S.Adithya Reddy, Advocate Sr.68116
+1cc to the Special Government Pleader (Taxes) Sr.68273

W.P.No.25690 of 2018

gmr[co]
srg 17/10/2018