IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.27087 & 27216 of 2018
and
W.M.P.Nos.31505 & 31643 of 2018

Tvl.Ammanarul Spinners Private Limited,
Represented by its Director,
Mr.Mahesh Kumar Saraf,
No.3/62, Thanneerthotti,Valapadi,
Thuraiyur Road,Nagiyampatty - 636 113,
Gangavalli Taluk, Salem District. ... Petitioner
(in all WPs)

Vs.

1.The State Tax Officer,
Attur Rural Assessment Circle,
Attur. ... Respondent
(in W.P.No.27087 of 2018)

2.The Commercial Tax Officer,
Attur Rural Assessment Circle,
Attur. ... Respondent
(in W.P.No.27216 of 2018)

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a WRIT OF CERTIORARI, calling for the records on the files of the respondent in CST.No.428286/2012-13 dated 28.03.2018 and CST.No.428286/2011-12 dated 16.12.2016 respectively and quash the same as being without jurisdiction authority of law and contrary to the Principles of Natural Justice.

For Petitioner : Mr.R.Senniappan
(in all WPs)

For Respondents : Mr.M.Hariharan,
Additional Government Pleader (Tax)
(in all WPs)

C O M M O N   O R D E R

Mr.M.Hariharan, learned Additional Government Pleader (Tax) takes notice for the respondents. By consent of the parties, these writ petitions are taken up for final disposal at the admission stage itself.

2. Both these writ petitions are filed challenging the orders revising the assessment passed in respect of assessment years 2011-2012 and 2012-2013 respectively.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Tax) for the respondent.

4. The grievance expressed before this Court against the impugned orders is that the Assessing Officer has made double assessment on a single turn over, one for assessment of tax on the ground of inter-state sales and other under the Tamil Nadu Value Added Tax Act, 2006. There is no dispute to the fact that the impugned orders were passed after issuing the notices of proposal and considering the objection filed by the petitioner against such proposal. The other contention raised is that the petitioner was not given an opportunity of personal hearing. It is stated by the petitioner that the disputed transfer is only a branch transfer and therefore, the impugned orders of assessment are erroneous.

5. Admittedly, the petitioner has already approached the Assessing Officer and filed an application under Section 84 of the TNVAT Act, 2006 on 04.09.2018 and the said application is still pending. When such being the factual position, it is for the petitioner to pursue such application filed before the respondent under Section 84 of the TNVAT Act, 2006, without resorting to challenge the orders of assessment by way of filing the present writ petitions.

6. Considering the fact that the said application filed under Section 84 of the TNVAT Act, 2006 is pending before the respondent, this Court is of the view that the petitioner can be heard in person by the respondent before disposing the said application.

7. This Court, at this stage is not expressing any view on the contentions raised by the petitioner, as it is for them to raise the same before the respondent at the time of personal hearing. Accordingly, without expressing any view on the merits of the matter, both these writ petitions are disposed of, by directing the respondent to take up the application filed by the petitioner under Section 84 of the TNVAT Act, 2006, dated 04.09.2018 and pass orders on the same on merits and in accordance with law, after giving due opportunity of hearing to

the petitioner. Such exercise shall be done by the respondent within a period of four 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, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The State Tax Officer,
Attur Rural Assessment Circle, Attur.

2.The Commercial Tax Officer
Attur Rural Assessment Circle, Attur.

+1cc to the Special Government Pleader(Taxes), S.R.No. 71347

W.P.Nos.27087 & 27216 of 2018

BR(CO)
GN(02/11/2018)