IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 12.11.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.27879 of 2018
and
W.M.P.No.32425 of 2018

M/s. Faiz Enterprises
represented by its Partner
Mr.Zuzar, Old No.20, Sembudoss Street,
Broadway, Chennai - 600 001. ..Petitioner

Vs.

1. The Commercial Tax Officer,
 Broadway Assessment Circle,
 199, Thambu Chetty Street,
 Chennai - 1.

2. The Commercial Tax Officer,
 Tondiarpet Assessment Circle,
 No.19 & 20, Kummalamman Koil Street,
 Tondiarpet, Chennai - 81.

3. The Assistant Commissioner,
 Broadway Assessment Circle,
 Chennai - 1.

4. The Branch Manager,
 Dena Bank, 80/81, Broadway,
 Chennai - 600 108. ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the files of the 1st respondent in TIN/33800040440/13-14 dated 25.05.2018 and quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to law.

For Petitioner : Mr.D.Vijayakumar
For Respondents : Mrs.G.Dhana Madhri, Government Advocate.

O R D E R

The petitioner is aggrieved against the order of assessment dated 25.05.2018 passed in respect of the assessment year 2013-14.

2. Though the assessment years covers two issues, namely, reversal of ITC under Section 19(5)(c) and 19(2)(v) of the TNVAT Act, 2006, learned counsel for the petitioner confined the relief in the writ petition only with regard to the issue related to reversal of ITC under section 19(5)(c).

3. According to the petitioner, the ''Ç'' form already submitted in the year 2015 related to the turnover of Rs.11,67,350/- was not at all considered by the Assessing Officer. On the other hand, the learned Government Advocate invited this Court's attention to the petition filed for rectification dated 27.08.2018 and submitted that as the petitioner has already approached the Assessing Officer seeking for rectification, they are not entitled to maintain the present writ petition.

4. Learned counsel for the petitioner fairly submitted that their petition filed under section 84 is still pending.

5. If that be the case, this Court is of the view that the petitioner is not entitled to maintain the present writ petition, challenging the order of assessment, as all the points raised herein can be agitated before the Assessing Officer in the rectification petition filed already. Accordingly, without expressing any view on the merits of the matter, the first respondent is directed to consider the rectification petition filed by the petitioner dated 27.08.2018 and the representation dated 23.08.2018 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 four weeks from the date of receipt of a copy of this order.

6. It is further contended by the petitioner that the respondents have already collected the disputed tax amount from the petitioner and therefore, the attachment of the bank account of the petitioner can be lifted. Learned Government Advocate is not disputing the fact that the disputed tax amount has already been collected. If that be the case, the respondents are not justified to continue the attachment of the bank account of the petitioner. Therefore, the respondents are directed to lift the attachment of the bank account of the petitioner forthwith. Accordingly, the Writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

vsi

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The Commercial Tax Officer,
   Broadway Assessment Circle,
   199, Thambu Chetty Street,
   Chennai - 1.

2. The Commercial Tax Officer,
   Tondiarpet Assessment Circle,
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3. The Assistant Commissioner,
   Broadway Assessment Circle,
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4. The Branch Manager,
   Dena Bank,
   80/81, Broadway,
   Chennai - 600 108.

+1cc to Mr.D.Vijayakumar, Advocate S.R.No.77628

KR/15/11/18 W.P.No.27879 of 2018