IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.29187 of 2018
in
W.M.P.No.34112 of 2018

Tvl.Meenakshi Paper Stores
Represented by its Proprietrix
Mrs.S.P.Rajeswari
No.61, 1st Agraharam
Salem. ..Petitioner

vs.

The Assistant Commissioner (CT) (FAC)
Bazaar Assessment Circle
Salem. ... Respondent

Writ Petition 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 TIN:33672780228/2012-2013 dated 28.09.2018 and connected proceeding dated 10.01.2017 and quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.V.Haribabu
Additional Government Pleader

O R D E R

Mr.V.Haribabu, learned Additional Government Pleader takes notice for the respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the proceedings of the respondent dated 10.01.2017 and 28.09.2018. While the earlier proceedings is an order of assessment passed in respect of the assessment year 2012-2013, the latter proceedings is an order passed under Section 84 of the Tamil Nadu Value Added Tax Act, 2006, dismissing the petition.

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3. Heard both sides.

4. The main grievance of the petitioner before this Court is that the Assessing Officer has not applied his mind to the reply/objections made by the petitioner against the notice of proposal, more particularly, with regard to the transit sales, especially, when the petitioner has placed certain materials before the Assessing Officer in support of their claim.

5. Mr.R.Senniappan, learned counsel for the petitioner submitted that the respondent disposed the petition filed under Section 84 of the TNVAT Act, 2006, mechanically without applying his mind to the points raised in the said petition.

6. Per contra, the learned Additional Government Pleader for the respondent contended that as the respondent has not found error apparent on the face of the records, he has rightly rejected the rectification petition and therefore, the petitioner is not entitled to question the same.

7. Perusal of the order of assessment would show that the Assessing Officer has dealt with six issues. Perusal of the rectification petition filed by the petitioner under Section 84 of the TNVAT Act, 2006, would show that the petitioner has raised certain objections as against the conclusion arrived by the Assessing Officer while passing the order of assessment. The Assessing Officer while considering the rectification petition, has however, did not give any reason or finding as to how the rectification petition is not entertainable, except to state that there was no error apparent on the face of the records. In my considered view, a simple one sentence finding as stated supra, is not a proper course to reject the rectification petition without justifying such conclusion with reasons and findings. Therefore, I find that the matter needs to go back to the respondent for fresh consideration of the petition filed under Section 84 of the TNVAT Act, 2006, on merits and in accordance with law. It is also made clear that this Court is not expressing any view on the merits of the matter, as it is for the respondent to consider and decide the same.

8. Accordingly, this writ petition is allowed in part and the impugned order dated 28.09.2018 passed under Section 84 of the TNVAT Act, 2006, is set aside. Consequently, the matter is remitted back to the Assessing Officer to re-consider the said

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petition 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 personal hearing to the petitioner. The said exercise shall be done by the respondent within a period of six weeks from the date of receipt of a copy of this order. Till the petition filed under Section 84 of the TNVAT Act, 2006 is disposed of, as directed supra, no coercive steps shall be taken against the petitioner. No costs. Connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

mk

To

The Assistant Commissioner (CT) (FAC)
Bazaar Assessment Circle
Salem.

+1 CC to Mr.R.Senniappan, Advocate sr 76317.
+1 CC to The Spl. Govt. Pleader sr 76529.

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