IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.29652 of 2018

M/s.Olive Agencies
Rep. by its Proprietor S.Saravanan
No.1A, Thiagaraja Street,
Raja Nagar, Puducherry. ... Petitioner

vs.

The Additional Deputy Commercial Taxes Officer
Office of the Commercial Taxes Department
Commercial Taxes Department of Puducherry
Puducherry. ...Respondent

Writ petitions filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to accept the statutory forms and revise the Central Sales Tax Assessment Order No.34480023770/2016-2017 dated 09.05.2018 and refund a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs) paid as tax.

For Petitioner : Mr.K.Senguttuvan

For Respondent : Mr.J.Kumaran
Additional Government Pleader (P)

O R D E R

Mr.J.Kumaran, learned Additional Government Pleader (Pondicherry) 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. This writ petition is filed seeking for mandamus directing the respondent to accept the statutory forms and revise the Central Sales Tax Assessment Order

No.34480023770/2016-2017 dated 09.05.2018 and refund a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs) paid as tax.

3. Heard both sides.

4. In respect of the assessment year 2016-2017, a pre-assessment notice was issued on the petitioner on 06.04.2018. Thereafter, an order of assessment was passed on 09.05.2018, determining the taxable turnover as Rs.67,42,55,000/- and tax due as Rs.6,74,25,500/-. According to the petitioner, they have already uploaded Form-F declaration in the web-site for claiming exemption and the originals of the same were sought to be produced before the Assessing Officer, which he refused to accept.

5. The learned counsel for the petitioner submitted that the Assessing Officer insisted the petitioner to receive the order of assessment first and produce Form-F declaration thereafter. Thus, it is contended that the Assessing Officer is not justified in going back on his words in refusing to accept Form-F declaration.

6. On the other hand, the learned Additional Government Pleader (Pondicherry) appearing for the respondent pointed out that in the order of assessment, the Assessing Officer has found that Form-F submitted by the petitioner were found to be bogus on cross verification with the Tamil Nadu authority and therefore, the petitioner is not entitled to seek any indulgence from this Court.

7. The present writ petition is filed simply seeking for mandamus directing the respondent to accept Form-F declaration, that too, admittedly, after an order of assessment was passed on 09.05.2018. Perusal of the said order and the findings rendered therein would show that the Assessing Officer has categorically observed that all the eight numbers of Form-F served by the dealer were bogus, after cross verification with the Tamil Nadu authority. Therefore, the Assessing Officer has chosen to determine the tax liability on the turnover as stated supra. At this juncture, the petitioner has come forward with this present writ petition, that too, seeking for mandamus as stated supra. When a specific finding is rendered by the Assessing Officer on the genuineness of Form-F declaration submitted by the petitioner through online earlier or produced after passing the order of assessment, as bogus, this Court is not inclined to issue any mandamus as sought for in this writ petition, as it is for the petitioner to question such finding of the Assessing Officer by filing an appeal before the Appellate Authority.

When such course is available to the petitioner, this Court is not inclined to entertain the present writ petition. Accordingly, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

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To

The Additional Deputy Commercial Taxes Officer
Office of the Commercial Taxes Department
Commercial Taxes Department of Puducherry
Puducherry.

+1cc to Mr.*, Advocate SR.No.78080

+1cc to Government Pleader SR.No.77655

WP. No.29652 of 2018

VG II(CO)

GMY(30/11/2018)