IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.32469 of 2018

Veekesy Plastomers India Private Limited
Represented by its Director
V.Rafeeque
No.5/46, Vadukkuthottam Street,
K.G.Chavadi, Ettimadai P.O.,
Coimbatore - 641 105.
... Petitioner

vs.

The Assistant Commissioner - (ST)
Perur Assessment Circle,
Coimbatore.
..Respondent

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the respondent herein in REC.No.557/2018/A2 dated 19.10.2018 and to quash the same with the direction to the respondent to permit them to rectify the errors in the amounts referred to on the purchase value disclosed in the return and to permit fresh Annexures on the purchase value in the Annexure.

For Petitioner : Mr.K.Narayanan
for Mr.N.Inbarajan
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, this writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the order of the respondent dated 19.10.2018 in rejecting their petition filed under Section 84 of the Tamil Nadu Value Added Tax Act, 2006.

3. Heard both sides.

4. The case of the petitioner is as follows:

They are the registered dealers on the file of the respondent. They effected inter-state purchase, for which they have to submit the declaration Form-C. The said declaration Form-C have to be generated for every quarter in the prescribed format while generating through on-line. The revised return under the Tamil Nadu Value Added Tax Act, 2006, was filed for the month of December 2016 due to certain errors in disclosing the invoice-wise data uploaded under Annexure-8. The unintentional error was due to sorting the excel sheet for uploading by creating a mis-match between the actual invoice value and Annexure invoice value. This error was due to overlapping of the invoice wise details while uploading the particulars in the Annexure. But the total purchase as per the revised return as well as the total purchases in Annexure 8 was one and the same, while the only mistake was the difference in the invoice value of individual dealers while uploading the particulars and overlapping of the invoices. The petitioner made a request to the respondent for approving E-Additional forms on 18.05.2018. The petitioner was informed that before approving the new additional C Forms request, they have to cancel the wrongly generated form in the portal itself to avoid duplication of forms. But in the login credentials in the portal, the option for cancelling E-CST form is not available. Thereafter, a petition under Section 9(2) of the CST Act, 1956 read with Section 84 of the TNVAT Act, 2006 was filed on 26.07.2018, seeking for permission to file fresh Annexures and to rectify the errors in the amounts referred to on the purchase value disclosed in the Annexure. The said request was rejected and hence, the present writ petition.

5. The learned counsel for the petitioner submitted that when admittedly, there is no difference between the total purchase as per the revised return as well as the total purchase in the Annexure-8 and the the only mistake was the difference in the invoice value of individual dealers while uploading the particulars, the respondent should have considered the said technical mistake and accepted the petition filed under Section 84 of the TNVAT Act, 2006.

6.On the other hand, the learned Additional Government Pleader for the respondent submitted that the petition was rightly rejected by the respondent, as the scope of the petition filed under Section 84 of the TNVAT Act, 2006, does not survive in the present case.

7. Perusal of the impugned order would show that the respondent has accepted that the purchase turn over reported in original as well as revised return are matching with the purchase turnover reported in the additional forms request and that the purchasers were also same in both category. It is also noted by the respondent that the only mistake committed by the petitioner at the time of uploading the excel sheet, was that the rows were changed between each other dealers, thereby causing the turn over difference between the dealers. Hence, it is evident that this technical/clerical error said to have been committed by the petitioner, while uploading the excel sheet, is not going to the root of the matter and alter the total turn over reported. Under such circumstances, I find that the respondent, instead of avoiding multiplicity of proceedings, should have given an opportunity to the petitioner to produce the original C-Forms for verification and pass the order on the petition filed under Section 84 of the TNVAT Act, 2006, even though the mistake was not on the part of the Revenue. When a simple mistake committed by the petitioner is not going to the root of the matter, moreover, on the reason that such mistake was committed due to technical error while uploading the excel forms, this Court is of the view that the respondent can consider the case of the petitioner afresh and pass appropriate orders on merits, after allowing the petitioner to produce the original C-Forms, since such consideration is not going to affect the interest of the Revenue in any manner, as it is an admitted fact that there is no difference in the purchase turn over reported in the original as well as revised returns.

K.RAVICHANDRABAABU,J.

mk

8. Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the respondent for fresh consideration of the 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 an opportunity to the petitioner to produce the original C-Forms. 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. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mk

To

The Assistant Commissioner - (ST)
Perur Assessment Circle,
Coimbatore.

+1cc to Mr.N.Inbarajan, Advocate, S.R.No.85211

+1cc to the Spl Government Pleader, S.R.No.85563

WP.No.32469 of 2018

VD(CO)
GSP(03/01/2019)