BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.03.2018
CORAM :
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.6834 of 2018
and
W.M.P.(MD)Nos.6560 & 6561 of 2018

M/s.Parvathi Woven Sacks Industries,
Represented by its Partner V.G.Santhanam,
No.160-G/F, 2nd Street, Kurinji Nagar,
Tuticorin. ... Petitioner

Vs.

The Assistant Commissioner (CT-II),
Commercial Taxes Buildings,
Tuticorin. ... Respondent

Prayer: Writ Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in Na.Ka.A3/332/06 TIN 33385922169 dated 21.09.2017 and quash the same as illegal and arbitrary and direct the respondent to consider the representations dated 12.10.2017 and records (Payment Proof) filed by the petitioner for the assessment years from 2002-03 to 2004-05 both under Tamil Nadu General Sales Tax Act and Central Sales Tax Act after affording opportunity of being heard to the petitioner with such time as may be fixed directed by this Court.

For Petitioner : Mr.S.Karunakar
For Respondent : Mrs.S.Srimathy
Special Government Pleader

ORDER

Heard the learned counsel on either side. By consent of both the parties, this writ petition is taken up for final disposal at the stage of admission itself.

2.The petitioner is an assessee registered with the respondent. The petitioner has submitted a representation dated 29.04.2017 informing the respondent that they had purchased PP granules from other states after payment of entry tax. According to the petitioner, whatever raw materials were purchased from other state dealer were used in the manufacture for sales.

3.The petitioner therefore requested the respondent to re-open the assessment under Section 55 of the TNGST Act. Even though the representations were filed in April 2017 under Section 55 of the said Act, without passing any order thereon, the respondent has chosen to issue the impugned demand notice dated

21.09.2017. Therefore, the petitioner filed another set of petitions under Section 55 of the TNGST Act on 12.10.2017.

4.The learned counsel appearing for the petitioner drew the attention of this Court to the order dated 17.12.2015 made in WP Nos.38722 to 38726 of 2015 reported in 2015-VIL-573-MAD where in the power of the authority under Section 84 of the TNVAT Act, 2006 has been expatiated.

5.Since the impugned demand notice was issued without first considering, the petitions filed by petitioner under Section 55 of the Tamil Nadu General Sales Tax Act and Central Sales Tax Act, the impugned demand notice stands quashed. The matter is remitted to the file of the respondent. The respondent is directed to consider the petitioner's representations dated 12.10.2017 and pass orders afresh after affording an opportunity of personal hearing to the petitioner. The writ petition stands allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The Assistant Commissioner (CT-II),
Commercial Taxes Buildings,
Tuticorin.

+1cc to Mr.S.Karunakar, Advocate Sr.No.58854
+1cc to The Spl. Government Pleader Sr.No.59247

SKM

VB/RSK/SAR1/11.07.2018/2P/4C

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