IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.7000 of 2014
and M.P. No. 1 of 2014

Tvl.Crescent Electricals
rep. by its Manager,
Mr.Mohammed Iqbal,
No.629, Kannappar Thidal,
Chennai - 600 003. ...Petitioner

Vs

Assistant Commissioner (CT)
Moore Market, (North),
Assessment Circle,
No.191, NSC Boase Road,
Chennai 600 001 ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Certiorarified Mandamus, calling for the records pertaining to the order of assessment in TIN No.33880381157/2012-13 dated 29.01.2014 on the file of the respondent and quash the same as arbitrary, illegal and without jurisdiction and further directing the respondent to redo the assessment after providing due opportunity of hearing to the petitioner in accordance with law.

For Petitioner : Mr.P.Haribabu
For Respondent : Mr.M.Hariharan,
Government Advocate

O R D E R

The petitioner challenges an order of assessment dated 29.01.2014 for the period 2012-13 reversing Input Tax Credit (ITC) under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') in respect of various purchases made from dealers, who according to the Revenue, do not hold a valid registration.

2. On merits, learned counsel for the petitioner relies on the judgment of the Supreme Court in the case of State of Maharashtra Vs. Suresh Trading Company [1998 (109) STC 439] and the decision of this Court in the case of The Assistant Commissioner (CT), Broadway Assessment Circle Vs. Bhairav Trading Company [(2016) 96 VST 315 (Mad)] for the proposition that reversal of Input Tax Credit on the basis of retrospective cancellation of a selling dealer is not in line with the provisions of the Act.

3. Prior to completion of assessment, objections were called for from the assessee. Though the petitioner has placed on record objections dated 03.01.2014, there is no acknowledgment for having filed the same.

4. Mr.M.Hariharan, learned Government Advocate for the Revenue also confirms that on verification of the assessment records, only the objections relating to the period 2013-2014 are located and not those relating to the period 2012-13.

5. Be that as it may, the petitioner has placed on record before me voluminous evidence between pages 15 to 81 comprising cash bills as well as its monthly returns. These evidences, according to it, were produced for verification before the Department, but have not been taken into account in the finalization of the assessment in time.

6. Taking into account the submissions of the petitioner, bearing in mind that the petitioner is a small dealer and in the interests of justice, the impugned order is set aside. The petitioner will appear before the Assessing Authority on 25.09.2019 at 10.30 a.m and no further notice need be issued in this regard. After hearing the petitioner and considering any/all evidences that may be placed before him, the officer will pass an order of assessment de novo within a period of four (4) weeks i.e., on or before 24.10.2019, bearing in mind the decisions in the cases of Bhairav Trading Company and Suresh Trading Company (supra), in accordance with law.

7. The writ petition is allowed in the aforesaid terms. Consequently, connected Miscellaneous Petition is also closed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

rkp

To
Assistant Commissioner (CT)
Moore Market, (North),
Assessment Circle,
No.191, NSC Boase Road,
Chennai 600 001

+1cc to Mr.P.Haribabu , Advocate SR.No. 80408

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A.SK(24/09/2019)