IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.06.2019

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.No.17622 of 2019
&
W.M.P.Nos.17080 and 177081 of 2019

Tvl.Duracon Automation
Represented by its Proprietor
G4, SIDCO Industrial Estate
Phase I & II, SIPCOT I
Hosur - 635 126 .. Petitioner

vs.

Assistant Commissioner (ST)
Hosur (South) .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondent in order dated 01.03.2019 in TIN 33453361961/2012-13 and quash the same consequently direct the respondent to consider the "Industrial Input Certificate" filed by the writ petitioner vide its representation dated 06.02.2019 under Section 84 of TNVAT Act, 2006.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.V.Haribabu
Additional Government Pleader

O R D E R

Mr.Adithya Reddy, learned counsel on record for writ petitioner is before this Court. Mr.V.Haribabu, learned 'Additional Government Pleader' ('AGP' for brevity) accepts notice on behalf of lone official respondent.

2. With consent of learned counsel on both sides, the main writ petition itself is taken up, heard out and is being disposed of.

3.Subject matter of the instant writ petition arises under

'Tamil Nadu Value Added Tax Act, 2006 (Tamil Nadu Act 32 of 2006)', which shall hereinafter be referred to as 'TNVAT Act' for brevity. Rules under this Act being made by Government under exercise of its rule making power under Section 81 of TNVAT Act are a set of Rules, which go by the name 'Tamil Nadu Value Added Tax Rules, 2007' and the same shall hereinafter be referred to as 'TNVAT Rules' for the sake of brevity.

4.Assessment Order which forms subject matter of instant writ petition is '2012-13' ('said AY' for brevity). As the writ petition turns on a very narrow compass, it may not be necessary to set out facts with elaboration. Suffice to say that an Assessment Order was passed by the sole respondent for said AY and that Assessment Order is dated 27.12.2018.

5.It is the case of the writ petitioner that certain Industrial Input Certificates, which have been filed by the petitioner and which according to the writ petitioner have to be taken into account for making the Assessment Order were made available to the writ petitioner post Assessment Order i.e., post 27.12.2018.

6. Learned counsel for writ petitioner drawing the attention of this Court to Rule 6(3)(b) of TNVAT Rules submits that Industrial Input Certificate is a statutory requirement and it is a certificate which is essentially under Rule 6(3)(b) of TNVAT Rules. As the Industrial Input Certificates being Certificates within the meaning of Rule 6(3)(b) of TNVAT Rules, were made available to the writ petitioner post Assessment Order, writ petitioner filed a rectification petition under Section 84 of TNVAT Act and this rectification petition is dated 06.02.2019. Respondent, rejected this rectification petition on the ground that there is no provision to accept aforesaid certificates post assessment. This is vide order dated 01.03.2019 made by the sole respondent bearing reference TIN 33453361961/2012-13 (hereinafter 'impugned order' for brevity).

7. Assailing the impugned order, instant writ petition has been filed.

8. In support of writ petitioner's prayer wherein the impugned order has been assailed, learned counsel for writ petitioner submitted that the aforementioned Industrial Input Certificate is a statutory requirement being a certificate issued from manufacturers within the meaning of Rule 6(3)(b) of TNVAT Rules and therefore, the same have to necessarily be taken into account for assessment and in this view of the matter, it would be appropriate to direct to exercise inherent powers vested with the respondent under Section 84 of TNVAT Act,

receive the Industrial Input Certificates, examine the same and redo the assessment, which was originally concluded vide Assessment Order dated 27.12.2018.

9. Learned Revenue counsel adverting to Section 84 of TNVAT Act submitted that the provision is intended to correct the errors apparent on the face of the Assessment Order and it cannot be used as a gateway for filing supporting documents post assessment.

10. In reply, learned counsel for writ petitioner submitted that the instant case stands on a different footing as the writ petitioner wants the respondent to look into only the statutorily required certificates under Rules 6(3)(b) of TNVAT Rules and no other documents. To be noted, as already alluded to supra, these are certificates which are statutory requirements.

11. In the light of the narrative thus far, this Court deems it appropriate to set aside the impugned order of the sole respondent being order dated 01.03.2019 bearing reference TIN 33453361961/2012-13 and direct the respondent to consider the Industrial Input Certificates, which have already been filed by the writ petitioner along with his representation dated 06.02.2019, which have been styled as 'Rectification Petition' under Section 84 of TNVAT Act and pass an Assessment Order afresh as expeditiously as possible and in any event, within a period of six weeks from the date of receipt of a copy of this order.

This writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar(CJ.Conf)

//True copy//

Sub Assistant Registrar

gpa

To
The Assistant Commissioner (ST) Hosur (South)

+1cc to Mr.Adithya Reddy, Advocate SR.No.53166
+1cc to Special Government Pleader SR.No.54167

W.P.No.17622 of 2019 &
W.M.P.Nos.17080 and 177081 of 2019

KS(CO)
GMY(19/07/2019)
GMY(05/08/2019)