IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.12.2019
CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.24692 of 2014
and M.P.No.1 of 2014

M/s. Shakthi Bala Process,
represented by its Partner,
K.V.R.Thottam, K.V.R.Nagar,
Mangalam Road,
Tirupur 641 604. .. Petitioner

vs.

The Commercial Tax Officer,
Office of the Commercial Tax Officer,
Tirupur (South) Circle,
Tirupur. .. Respondent

Prayer : Writ petition filed under Article 227 of the Constitution of India, praying for a writ of Certiorarified Mandamus calling for the records of the respondent in TNGST No.2321196/2004-05 and quash the pre-assessment notice dated 24.06.2014 issued and further direct the respondent to pass deemed assessment order for the assessment year TNGST 2004-05 as contemplated under Section 12-C of the TNGST Act read with Sec.9 (2) of the CST Act 1956.

For petitioner : Mr. B.Raveendran
For Respondent : Mr.V.Haribabu
Addl.Govt.Pleader (T)

O R D E R

Heard the learned counsel for the petitioner and the Learned Additional Government Pleader(Tax).

2. In this writ petition, the petitioner has challenged the impugned pre-assessment notice dated 24.06.2014 for the assessment year 2004-2005. It is submitted that since the assessment was not completed under the provisions of the erstwhile TNGST Act, 1959 for the assessment year 2004-05 before its repeal and substitution with TNVAT Act, 2006, deemed assessment orders ought to have been passed under Section 12 C of the TNGST Act, 1959 read with Section 9 (2) of CST Act, 1956.

3. The learned counsel for the petitioner submits that the said provision was inserted with a view to bring finality to all the pending assessment proceedings so that further proceedings can be initiated under the provisions of the then newly enacted the TN VAT Act, 2006.

4. Per contra, the learned Additional Government Pleader (Tax) submits that there are conflicting decisions of the courts and therefore prays for dismissal of the present writ petition.

5. I have considered the submissions of the learned counsel for the petitioner and the learned Additional Government Pleader (Tax). Under the aforesaid provision pending assessment has to be completed subject to provisions of Section 16 of the said Act. I find considerable force in the submission of the learned counsel for the petitioner.

6. In view of the implementation of TNVAT Act, 2006, a special dispensation was provided under Section 12 C of the erstwhile TNGST, 1959 for completing the pending assessment. Thereafter, fresh proceedings could be initiated by the officers for reopening the assessment completed under the newly enacted T.N.VAT Act, 2006 in view of saving contained Section 18 of the TN VAT Act, 2006.

7. In view of the above discussion, the present writ petition deserves to be allowed while giving liberty to the respondents to initiate appropriate proceedings under the provisions of the TN VAT Act, 2006 in accordance with law.

8. The Writ Petition stands allowed with the above observation. No cost. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

// True Copy//

Sub Assistant Registrar

kkd

To
The Commercial Tax Officer,
Office of the Commercial Tax Officer,
Tirupur (South) Circle, Tirupur.

+1CC to SPL. GP.SR.No.104073.

W.P.No.24692 of 2014
and M.P.No.1 of 2014

RR(CO)
CSR:07.02.2020