IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.29635 of 2019
and
W.M.P.No.29534 of 2019

Tvl.M.R.Agencies
Represented by its Proprietrix
M.Udayapriay ...Petitioner

vs.

The State Tax Officer
Kellambakkam Assessment Circle
Perungudi, Chennai-600 096. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the files of the respondent in TIN.3307160978/2015-2016 dated 30.05.2018 and connected proceedings dated 10.09.2019 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondent : Mrs.G.Dhana Madhri
Government Advocate (T)

O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate (Tax) takes notice for the respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed challenging the order of assessment dated 30.05.2018 passed in respect of the assessment year 2015-2016 and the consequential order dated 10.09.2019 rejecting the petitioners' application filed under Section 84 of the Tamil Nadu Value Added Tax, Act, 2006.

3. Heard Mr.R.Senniappan, learned counsel for the petitioner and Mrs.G.Dhana Madhri, learned Government Advocate (Tax) for the respondent.

4. It is seen that in respect of the relevant assessment year, notice of proposal dated 09.03.2018 was issued on the petitioner containing two issues. Though such notice was received by the petitioner, admittedly, they have not filed any reply. Therefore, the Assessing Officer has passed the order of assessment dated 30.05.2018. Thereafter, the petitioner approached the Assessing Officer and filed an application under Section 84 of the Tamil Nadu Value Added Tax, Act, 2006, enclosing certain documents. The Assessing Officer, by order dated 10.09.2019, rejected the said application by holding that there is no arithmetic and calculation error in this case to apply Section 84(1) of the TNVAT Act, 2006. Needless to say that if the petitioner is aggrieved further, it is open to them to file an appeal before the concerned Appellate Authority, challenging those impugned orders. Without doing so, the petitioner has come forward to file the present writ petition, which in my considered view, is not maintainable, especially when the petitioner has not chosen to file reply to the notice of proposal dated 09.03.2018.

5. Accordingly, without expressing any view on the merits of the claim made by the petitioner, this Writ Petition is disposed of only by granting liberty to the petitioner to file an appeal by raising all the contentions before the concerned Appellate Authority within a period of two weeks from the date of receipt of a copy of this order. If any such appeal is filed within the time stipulated, the said authority shall consider the same and pass orders on its own merits and in accordance with law, without reference to the period of limitation, within a period of eight weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

To

1.The State Tax Officer
Kellambakkam Assessment Circle
Perungudi, Chennai-600 096.

2.The Section Officer,
E.R. Section,
High Court, Madras(To return the original impugned order)

+1cc to M/s.Special Government Pleader(Taxes) sr.87450
+1cc to Mr.R.Senniappan, Advocate sr.87081

W.P.No.29635 of 2019

nr 21/10/2019