IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.34412 of 2018
and
W.M.P.No.39989 of 2018

M/s.Arun Engineering
Rep. by its Authorised Signatory
Mr.Andrew Preethan
No.64, Kalyani Industrial Estate,
Vanagaram Road, Athipet,
Chennai-600 058. ...Petitioner

vs.

1.The Commercial Tax Officer
Nolambur Assessment Circle
No.176, M.T.H.Road,
Villivakkam, Chennai-600 049.

2.The State Tax Officer
Nolambur Assessment Circle
No.176, M.T.H.Road,
Villivakkam, Chennai-600 049. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order No.CST No.796451/2016-2017 dated 10.09.2018 issued by the 1st respondent and quash the same and further direct the 1st respondent to pass order in the application dated 07.12.2018 filed by the petitioner for rectification of assessment order dated 10.09.2018.

For Petitioner : Mr.G.Derrick Sam

For Respondents: Mr.M.Hariharan
Additional Government Pleader

O R D E R

Mr.M.Hariharan, learned Additional Government Pleader takes notice for the respondent. By consent of the parties, this main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed against the order of assessment dated 10.09.2018 relating to assessment year 2016-2017.

3. The petitioner has chosen to challenge the order of assessment by raising very many contention on merits. However, the fact remains that the petitioner has already approached the Assessing Officer and filed an application under Section 84 of the Tamil Nadu Value Added Tax Act, 2006, on 07.12.2018 and the said application is still pending. When such being the factual position, it is for the petitioner to work out their remedy by pursuing the application already filed under Section 84 of the TNVAT Act, which is still pending.

4. Therefore, this Court is of the view that the challenge made against the assessment order in this writ petition during the pendency of the application filed under Section 84 of the TNVAT Act, 2006, is not a proper course of action. Accordingly, without expressing any view on the merits of the matter, this writ petition is disposed of, only by directing the Assessing Officer/1st respondent to consider the application filed under Section 84 of the TNVAT Act, 2006 and pass orders on the same on merits and in accordance with law, after giving due opportunity of personal hearing to the petitioner. Such exercise shall be done by the first respondent within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mk
To

1.The Commercial Tax Officer
Nolambur Assessment Circle
No.176, M.T.H.Road, Villivakkam, Chennai-600 049.

2.The State Tax Officer
Nolambur Assessment Circle
No.176, M.T.H.Road, Villivakkam, Chennai-600 049.

+1cc to Mr.Hari Radhakrishnan, Advocate Sr.383
+1cc to the Government Pleader Sr.1137

W.P.No.34412 of 2018

ks[co]
srg 30/01/2019