BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.09.2019
CORAM:
THE HONOURABLE MR.JUSTICE **M.GOVINDARAJ**

W.P(MD)No.14122 of 2019
and
WMP(MD)No.10582 of 2019

Tvl.Bonded Textiles Pvt Ltd.,
rep.by its Director
Pinak Rudra Ghosh,
S/o.M.Kumar Brata Ghosh
No.8, Madurai integrated textiles Park Ltd., Campus,
Thathampatty Village,
Vadipattu Taluk,
Madurai District - 625 218. .. Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Assistant Commissioner (ST),
Thirumangalam Assessment Circle,
Commercial Taxes Office,
No.15/91, Sonaiar Street,
Jawahar Nagar,
Thirumangalam,
Madurai District - 625 706. .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for records pertaining to the impugned proceedings of the 2nd respondent in TIN:33465042335/2013-14 dated 28.03.2019 and quash the same.

For Petitioner : Mr.Raja Karthikeyan
For Respondents : Mrs.J.Padmavathi Devi
Special Government Pleader

ORDER

The petitioner prefers this writ petition against the order passed by the 2nd respondent in TIN:33465042335/2013-14 dated 28.03.2019.

2.The grievance of the petitioner is that some other dealers have wrongly entered his TIN number and this was considered as purchase suppression by the petitioner. He produced his ledger accounts, details of sales (Annexure - II) and accounts of other dealers to disprove that he has not done any purchase suppression as alleged by the respondents. Even though he submitted a detailed reply along with the abovesaid enclosures, the Assessing Authority has passed the impugned order stating that the petitioner has not proved the mistakes committed by other suppliers by producing comparative records. There is no discussion about the ledger accounts produced by the petitioner as well as Annexure - II and the records of the other dealers who wrongly used TIN number of the petitioner. It is also pertinent to note that a Circular was issued by the first respondent/Commissioner of Commercial Taxes, Chennai stating that till the issue is resolved, notices shall be issued and the matters can be kept pending. Inspite of the same, the Assessing Authority passed the impugned order without setting out valid reasons.

3.From the perusal of the impugned order, it is clear that the Assessing Authority has not dealt with the objections raised by the petitioner. There is no discussion or reason adduced for rejecting the objections. When there is use of TIN number by third party dealers, the assessing authority shall conduct intra-departmental enquiry to ascertain the facts, more so, when the officials alone have access to the network system. The assessing authority failed to pass a reasoned order, rather a cryptic order is passed. Therefore, this Court is of the considered opinion that the impugned order is not sustainable and accordingly the same is set aside. The matter is remitted back to the authorities to take further steps to verify the accounts of other suppliers on the basis of the records submitted by the petitioner and also compliance with the Circular issued by the Head of the Department and pass orders after giving opportunity to the petitioner.

4.The writ petition is ordered accordingly. No costs. Consequently, WMP(MD)No.10582 of 2019 is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Assistant Commissioner (ST),
Thirumangalam Assessment Circle,
Commercial Taxes Office,
No.15/91, Sonaiar Street,
Jawahar Nagar,
Thirumangalam,
Madurai District - 625 706.

+1 CC to M/s.SPL GP (SR-85613[F] dated 06/09/2019)

+1 CC to M/s.B.ROOBAN, Advocate (SR-85931[F] dated 09/09/2019)

W.P(MD)No.14122 of 2019
05.09.2019

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