IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.01.2020
CORAM
THE HONOURABLE Dr. JUSTICE ANITA SUMANTH
WP.No.154 of 2020
and WMP.No.192 of 2020

M/s.Origin Engineers & Suppliers,
Rep. by its Proprietor,
4/52-C3 Arabi Street,
Nidur, Mayiladuthurai - 609 203. .. Petitioner

Vs.

Deputy Commercial Tax Officer,
Mayiladuthurai-II Assessment Circle,
Mayiladuthurai, Nagapattinam District. .. Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent and quash the proceedings in TIN 33234062713/2014-15 dated 10.05.2019 as it is against the charging Section 5 of TNVAT Act and to direct the respondent to pass fresh orders after providing an opportunity of personal hearing.

For Petitioner : Mr.C.Bakthasiromoni

For Respondent : Mr.ANR.Jayapratap
Government Advocate

O R D E R

Heard Mr.Bakthasiromoni, learned counsel for the petitioner and Mr.ANR.Jayapratap, learned Government Advocate for the respondent.

2.By consent expressed and in fact at request of both learned counsel, this writ petition is taken up for final disposal even at the stage of admission.

3.The petitioner suffered an order of assessment dated 10.05.2019 passed in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006, for the period 2014-2015. Admittedly, the petitioner did not appear at the time of assessment before the Officer. Neither did it produce books of accounts or any particulars whatsoever before the Officer to substantiate its claim to the effect that it is a works contractor and should be assessed in terms of Section 5 and Section 6 of the Act. The assessment was thus completed adverse to the petitioner as against which an application under Section 84 of the Act seeking rectification of mistake was filed. The application came to be rejected by order dated 09.12.2019 on the ground that there was no mistake from the record liable to be rectified. The petition is now before this Court challenging the order of assessment dated 10.05.2019.

4.Prima facie, there is no merit in this writ petition in so far as no legal infirmity has been shown in the order impugned. The assessee, has also not co-operated in the finalization of the assessment. However Mr.ANR.Jayapratap, learned Government Advocate for the respondent does not very seriously object to the suggestion of the Court that the petitioner could be afforded one more opportunity to produce materials to support its claim seeing as a specific submission is made by the petitioner to the effect that all materials in support of its claim are now available readily. Thus accepting the request of the petitioner on terms, the impugned assessment is set aside upon condition that the petitioner remit 25% of the tax demand within a period of three weeks from today.

5.Let the petitioner appear before the Assessing Officer on Thursday, the 23rd of January, 2020 at 10.30 a.m. After verifying compliance with the condition imposed at paragraph-4 above, let the bank accounts of the petitioner under attachment be lifted and the assessment be completed denovo, within a period of four weeks thereafter.

6.This writ petition is disposed as above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

The Deputy Commercial Tax Officer,
Mayiladuthurai-II Assessment Circle,
Mayiladuthurai, Nagapattinam District.

+1cc to Mr.C.Bakthasiromoni, Advocate sr.2166

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