IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2020

CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

Writ Petition No.17589 of 2010
and MP.No.1 of 2010

M/s.Blue Star Limited,
104, Cathedral Road,
Chennai - 600 014. ... Petitioner

Vs.

The Assistant Commissioner (CT)
Royapettah - I Assessment Circle,
Chennai - 600 028. ... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, to call for the records of the respondent in TNGST No.0721254/2004-05, and quash the proceedings dated 22.06.2010 issued therein and further direct the respondent to complete the original assessment in accordance with Section 12-C of the Tamilnadu General Sales Tax, 1959.

For Petitioner : Mr.B.Raveendran
For Respondent : M/s.G.Dhanamadhri, AGP (T)

ORDER

The petitioner has challenged the impugned notice dated 22.6.2010 issued to the petitioner for the assessment year 2004-2005. Under the impugned notice it was proposed to complete the assessment as per the proposal contained in the impugned notice and to levy penalty under section 12(3) (b) of the TNGST Act, 1959.

2. It is the contention of the petitioner that the pending assessment has to be completed in terms of section 12-C of the TNGST Act, 1959 which was introduced at the threshold of introduction of Tamil Nadu VAT Act, 2006. The learned counsel for the petitioner further submits that corresponding amendments were also made to the Tamil Nadu General Sales Tax Rules, 1959 by introduction of Rule 15E.

3. Learned counsel for the petitioner further submits that since the filing of the writ petition, instructions have been

issued by the Commissioner of Commercial Taxes on 23.7.2007 bearing reference VAT Cell Circular No. 12/2007, Office of the Commissioner of (VAT Cell No. 26401/2007 Commercial Taxes, wherein it has been clarified that the assessing authority should pass deemed assessment order in all the pending cases where prescribed returns have been filed and declaration form and certificate have been submitted in support of the claim for exemption or concessional rate of tax. Learned counsel for the petitioner further submits that as per the above circular if any complaints are received, Asst Commissioner and the Deputy commissioner are to be held responsible.

4. Per contra learned counsel for the respondent submits that the writ petition is premature and the petitioner can make all the submissions that are available to the petitioner under the law and therefore prays for dismissal of the present writ petition.

5. I have considered the arguments of the learned counsel for the petitioner and the respondents.

6. This writ petition is not maintainable and therefore deserves to be dismissed. At the same time, pending assessment of petitioner is required to be dealt under Section 12 C of the TNGST Act, 1959 if the petitioner is satisfies the requirement. This aspect may be examined by the respondents while passing the order.

7. Therefore, respondent is directed to consider the representation of the petitioner if any that may be filed and proceed to dispose the impugned show cause proceedings. Since the case pertains to the assessment year 2004-2005, respondent is directed to pass an appropriate order in accordance with law within a period of 3 months from date of receipt of this order. Needless to state, before passing any order, the petitioner shall be heard.

7. Writ petition stands disposed with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(C.S.VIII)

/True Copy/

Sub Assistant Registrar

To

The Assistant Commissioner (CT)
Royapettah - I Assessment Circle,
Chennai - 600 028.

+1cc to Mr.B.Raveendran, Advocate Sr.No.487
+1cc to The Special Government Pleader(Taxes), Sr.No.927

AKM/26.02.2020 /3P-4C/

W.P.No.17589 of 2010