IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2020
CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 32942 of 2013
and
M.P. No. 1 of 2013

M/s. Rajyog Electricals
Represented by its Proprietrix
Mr. Nupur Kothari
No.22/23, Venkatachala Mudali Lane
Park Town, Chennai - 600 003. ...Petitioner

-vs-

The Assistant Commissioner (CT) (FAC)
Rattan Bazaar Assessment Circle
Kuralagam Annexe, First Floor
Chennai - 600 108. ...Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records comprised in impugned order TIN: 33610301329/2012-13 dated 26.09.2013 on the file of the respondent, quash the same and consequently direct the respondent to give opportunity before the passing the order.

For Petitioner : Mr. Dhalapathy
for Mr. P.Sathish
For Respondent : Mrs. G.Dhana Madhri
Government Advocate (Taxes)

O R D E R
(through video conference)

Heard Mr. Dhalapathy, Learned Counsel appearing for the Petitioner and Mrs. G.Dhana Madhri, Learned Government Advocate (Taxes) appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Order No. TIN:33610301329/2012-13 dated 26.09.2013, in which the tax liability of the Petitioner under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as 'the TNVAT Act' for short) for the assessment year 2011-2012 had been determined by the Respondent.

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3. Though the Petitioner was issued notices dated 15.03.2013 and 15.04.2013 prior to the passing of the impugned order, he had not submitted any explanation for the same. However, after the passing of the impugned order, the Petitioner claims to have submitted an explanation dated 09.10.2013 on the genuineness of the transactions so as to avail the benefit of the concession-cum-exemption for taxation. On that premise, this Writ Petition has been filed to set aside the impugned order so as to enable the Petitioner to place his explanation and for fresh determination of tax liability by the Respondent.

4. Though it is not possible to accede to the relief claimed by the Petitioner inasmuch as the Respondent cannot said to be at fault as due opportunity was granted to the Petitioner before passing the impugned order, it shall be incumbent upon the Respondent to treat the explanation dated 09.10.2013 submitted by the Petitioner after the passing of the impugned order as rectification application under Section 84 of the TNVAT Act in terms of the principles laid down by the Full Bench of this Court in State of Tamil Nadu -vs- Arulmurugan and Company (Order dated 02.11.1982 in Tax Cases Nos. 78 and 196 of 1980). The Petitioner is not precluded from furnishing such further information and the Respondent is also entitled to require other particulars and documents from the Petitioner to re-assess the tax liability of the Petitioner. After affording opportunity to the Petitioner to submit written explanation with supporting documents and personal hearing following the prescribed procedure in consonance with the principles of natural justice, reasoned orders shall be passed on merits in accordance with law dealing with each of the contentions raised and the decision taken shall be communicated to the Petitioner under written acknowledgment. Though obvious, it is made clear that no view has been expressed by this Court on the merits of the controversy involved in the matter.

5. In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VII )

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//True copy//

Sub Assistant Registrar

Maya

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To

The Assistant Commissioner (CT) (FAC)
Rattan Bazaar Assessment Circle
Kuralagam Annexe, First Floor
Chennai - 600 108.

+1cc to Mr.P.Sathish, Advocate in SR.NO..37114
+1cc to Special Government Pleader(Taxes), SR.No.37270

W.P. No. 32942 of 2013

SR II(CO)
KKV(14/12/2020)

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