IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.12.2020
CORAM
THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU
W.P. No. 2246 of 2016
and
W.M.P. No. 1941 of 2016

Mr. G.Ramesh
No.150, Mettu Street
Thirukazhukundram-603 109
Kancheepuram District
Tamil Nadu
... Petitioner

-vs-

The Assistant Commissioner
Commercial Taxes
Thirukazhukundram Assessment Circle
42, Wahab Nagar
Thirukazhukundram 603 109.
... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the Respondent's notice dated 11.12.2015 made in TIN 33741601785/2010-2011, quash the same.

For Petitioner : No appearance
For Respondent : Mr. A.N.R. Jayaprathap
Government Advocate

O R D E R
(through video conference)

There is no representation for the Petitioner when the matter is called at 1.45 p.m. and 3.20 p.m.

2. Heard Mr. A.N.R. Jayaprathap, Learned Government Advocate appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

3. The Writ Petition challenges the Demand Notice in TIN 33741601785/2010-2011 dated 11.12.2015, by which the Petitioner was called upon to pay a sum of Rs.38,48,445/- in respect of the Value Added Tax amount due for the year 2010-2011.

4. It is brought to notice by the Learned Government Advocate appearing for the Respondent from para 11 of the Counter-Affidavit that the assessment order in respect of the impugned Demand Notice had been issued has been subsequently modified in appeal, which reads as follows:-

> "11. With regard to the averments made in Para 14 and 15 of the affidavit, it is submitted that in the absence of stay order from the Appellate Deputy Commissioner (CT), Chennai (South) from the date of filing an appeal on 18.08.2015 and up to 11.12.2015 (i.e., the date on which the formal three days notice was issued to the Petitioner requesting to pay the arrears), the Assistant Commissioner (ST), Thirukazhukundram Assessment Circle had issued the formal notice to the Petitioner on 11.12.2015 giving opportunity of three days time requesting to pay the above said arrears. Aggrieved by the formal notice dated 11.12.2015, the Petitioner had filed this Writ Petition on 18.01.2016.
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> Thereafter, the Petitioner had obtained the conditional stay order from the Appellate Deputy Commissioner(CT), Chennai (South) in S.P. No. 05/2016 in A.P. No. 220/2015 n 03.02.2015 and fulfilled the conditions by way of paying another 25% disputed tax amount of Rs.8,51,656-00 and filed the Bank Guarantee for the remaining tax amount of Rs.17,03,311-00 and penalty of Rs.4,41,822-00. The Appellate Deputy Commissioner (CT), Chennai (South) had disposed of the Petitioner's appeal as remanded back to the assessing officer in his order No. AP. No. 220/2015 dated 01.06.2016.
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> According to the order of the Appellate Authority, the assessment for the year 2010-2011 was revised on 09.01.2017 levying tax at 4% from 12.5% on the Civil Works contract made by the Petitioner to the Government Department and another one category of ITC reversal which was claimed by the Petitioner eyond the time limit under Section 19(11) of the TNVAT Act. Based on the revision order, the Petitioner had also paid the balance tax amount of Rs.1,54,238-00 and penalty under Section 27(4) of Rs.4,41,822-00 on 18.04.2017. Says that Assessee has paid entire tax. But the impugned notice is an attachment towards due for the year 2010-2011. At present, no disputes are pending for the year 2010-2011."

In view of the same, it is further informed that no amount of tax is due for the assessment year 2010-2011 for which the impugned Demand Notice has been raised. The said submissions made are placed on record. Nothing remains for further consideration in the matter.

Accordingly, the Writ Petition is disposed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner
Commercial Taxes
Thirukazhukundram Assessment Circle
42, Wahab Nagar
Thirukazhukundram 603 109.

+1cc to the Spl Government Pleader, S.R.No.39186

W.P. No. 2246 of 2016

JP(CO)
GSP(18/12/2020)