BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.11.2020
CORAM:
THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P.(MD)No.16261 of 2020

Tvl.Nagappa Auto Spare Parts,
Represented by its Legal Heir R.Mathivanan,
201/19-F, B.J.Complex,
Madurai Main Road,
Thirupathur, Sivagangai District. ... Petitioner

Vs

The State Tax Officer,
(Previously Known as Commercial Tax Officer)
Thiruppathur. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to consider the representation dated 28.11.2017 within stipulated period as may be fixed by this Court.

For Petitioner : Mr.S.Karunakar

For Respondents : Mrs.J.Padmavathi Devi
Special Government Pleader

ORDER

(This writ petition is heard through video conference)

This writ petition has been filed for a mandamus seeking for a direction to the respondent to consider the petitioner's application dated 28.11.2017, filed under Section 84 of the Tamilnadu Value Added Tax Act, seeking rectification of the assessment order dated 11.07.2016, passed under Section 27(2) of the Tamilnadu Value Added Tax Act.

2.Heard Mr.S.Karunakar, learned counsel for the petitioner and Mrs.J.Padmavathi Devi, learned Special Government Pleader, who accepts notice on behalf of the respondent.

3.By consent of both parties, this writ petition is taken up for hearing at the admission stage itself.

4.It is the case of the petitioner that after receipt of the assessment order dated 11.07.2016, they had submitted an application dated 28.11.2017, with the respondent along with Bill copies by stating that they had effected purchase only from legally registered dealers covered by proper invoices and only on that basis, they had claimed input tax credit. Therefore, according to them, there is an error apparent error on the face of the record in the assessment order dated 11.07.2016, passed by the respondent. It is the case of the petitioner that till date their application dated 28.11.2017, filed to rectify the error apparent on the face of the record in the assessment order dated 11.07.2016, has not been considered by the respondent. In such circumstances, this writ petition has been filed.

5.The learned Special Government Pleader appearing for the respondent on instructions would submit that the respondent has received the application dated 28.11.2017, submitted by the petitioner, seeking rectification of the assessment order dated 11.07.2016, under Section 84 of the Tamilnadu Value Added Tax Act 2006. When the respondent has received the said application, they ought to have disposed of the same on merits and in accordance with law. But till date, the said application has not been disposed of by the respondent. No prejudice will be caused to the respondent if the application of the petitioner submitted under Section 84 of the Tamilnadu Value Added Tax Act is disposed of on merits and in accordance with law.

6.For the foregoing reasons, this Court directs the respondent to consider the petitioner's application dated 28.11.2017, seeking rectification of the assessment order dated 11.07.2016, under Section 84 of the Tamilnadu Value Added Tax Act 2006 and pass final orders on merits and in accordance with law, after affording sufficient opportunity to the petitioner, including granting them the right of personal hearing, within a period of four weeks from the date of receipt of a copy of this order.

7.With the aforesaid direction, this writ petition is disposed of.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TM

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

The State Tax Officer,
(Previously Known as Commercial Tax Officer)
Thiruppathur.

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-22471[F] dated 23/11/2020)

+1 CC to M/s.SGP (SR-22546[F] dated 23/11/2020)

W.P.(MD)No.16261 of 2020
20.11.2020

ARK(CO)
KK(02.12.2020) 3P 4C