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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.2722 of 2019
&
W.M.P.Nos.2978 & 2980 2019

(Through Video Conferencing)

Tvl.Sri Vasavi Tyres Agency
Represented by its Proprietor,
S.J.Venkatesan,
No.14/1, Rathinasamy street,
Shevapet,
Salem-636 002. ... Petitioner

Vs

The Assistant Commissioner (CT) (FAC),
Shevapet Assessment Circle,
Salem.
... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the files of the respondent in TIN:33362642028/2010-11 dated 26.05.2017.

For Petitioners : Mr.R.Senniappan

For Respondent : Ms.Amirta Dinakaran
Government Advocate

ORDER

The petitioner has challenged the impugned assessment order dated 26.05.2017 on the ground that the notice preceding the impugned order dated 16.12.2016 proposes to demand tax at 4 per cent on the sales turnover proposed in the said notice. It is further submitted that the notice is stereotype show cause notice and states that the reported turnover of garment whereas the petitioner is engaged in tyre business, therefore, submits

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that there is a mistake in the impugned order inasmuch as it has not only confirmed the demand but also confirmed the demand at 12.5 per cent, contrary to the proposal in the show cause notice.

2. The Learned counsel for the respondent submits that the reference to the word ready-made garments at 4 per cent in the turnover is a typographical mistake and therefore, the mistake in the impugned order is not serious. It is further submitted that petitioner did not participate in the proceedings and therefore there is no merits in the present writ petition and therefore, the present writ petition itself is liable to be dismissed.

3. Heard learned counsel for the petitioner and for the respondent, perused the impugned order and the notice preceding the impugned order. Though the petitioner had failed to give a reply, it is clear that the impugned order has been passed in a mechanical manner inasmuch as the show cause notice dated 16.12.2016 itself has mistakes as to the goods traded by the petitioner and the rate of tax in the said notice. Considering the same the impugned order is quashed and the case is remitted back to the respondent to pass a speaking order within a period of 45 days from the date of receipt of copy of this order. Considering the fact that the notice dated 16.12.2016 has mistakes, the respondent is directed to issue a corrigendum to the aforesaid notice within a period of 15 days. The petitioner shall reply within 30 days thereafter. The respondent shall pass appropriate orders on merits and in accordance with law within a period of 30 days thereafter. Needless to state, the petitioner shall be heard before such orders are passed. The petitioner is directed to co-operate with the respondent.

Writ petition stands allowed with the above observations. Consequently, connected writ miscelleanous petitions are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nst

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To

The Assistant Commissioner (CT) (FAC),
Shevapet Assessment Circle,
Salem.

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