IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.14297 of 2016
and
W.M.P.No.12479 of 2016

M/s.ACME Technologies,
Represented by S.K.Jayachandran
74/1, Saraswathi Complex,
Mailam Road, Agasamapet Village,
Vanur Taluk - 605 111.
Villupuram. ...Petitioner

.Vs.

Commercial Tax Officer (Addl),
Tindivanam. ...Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, call for the records of the Respondent in order dated 15.09.2015 in TIN.33944723523/2014-15 and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.R.Swarnavel,
Government Advocate

O R D E R

In this Writ Petition, the petitioner has challenged the impugned order dated 15.09.2015. The order came to be passed based on the Intra-net website verification wherein it was found that the petitioner had purchased goods from various registered dealers in Tamil Nadu to a tune of Rs.27,69,284/- (Rupees Twenty Seven Lakhs Sixty Nine Thousand Two Hundred and Eighty Four) but had failed to declare the same.

2.Under these circumstances, a letter dated 07.08.2015 was issued to the petitioner. However, there was no positive response from the petitioner. Therefore the impugned order dated 07.08.2015 came to be issued in terms of which it was proposed to add an equal amount for the probable omissions for the Assessment Year 2014-2015 into the total and taxable turnover proposed under Section 22 (4) of the TNVAT Act, 2006. The notice also proposed to levy penalty at 150% of the tax due on the actual suppression proposed.

3.Under these circumstances, the petitioner filed an application under Section 22(6) of the TNVAT Act, 2006, for re-assessment. It was also filed within a period of 30 days from the service of the Assessment order. On receipt of such application Assessing Authority shall, if satisfied that the failure to submit the return in time was due to reasons beyond the control of the petitioner, may cancel the Assessment made and make a fresh assessment on the basis of the return submitted.

4.By the impugned order dated 30.10.2015, the application filed under Section 22(6) of TNVAT Act, 2006 was rejected on the ground that the petitioner had filed the monthly return in Form-1 for the Assessment Year 2014-2015 as a whole year only on 06.10.2015 and reported the sales turnover of only Rs.4,29,216/- (Four Lakhs Twenty Nine Thousand Two Hundred and Sixteen) covered within taxable limit and therefore it is not acceptable one. As the petitioner had effected purchases from registered dealers for a tune of Rs.27,69,284/-. The respondent had further rejected the request of the petitioner on the ground that the petitioner has not fulfilled the conditions of Rule 7(1)(a) and Rule 7(7) of the TNVAT Rules, 2007.

5.Both the counsels submitted that while dealing with a similar issue, this Court has by an order dated 13.03.2020 in W.P.Nos.39262 to 39265 of 2016 [M/s.Inno-Tech Electronics System Vs. Commercial Tax Department] followed the decisions in M/s.J.K.M.Graphics Solutions Private Limited Vs. The Commercial Tax Officer, 2017 SCC Online 669 and remitted the case back to the respondent for passing fresh order in terms of the said decision.

6.I find no reasons to deviate from the same. The impugned order is set aside and the case is remitted back to the respondent to pass fresh order in terms of the decisions of the Court in Vinayaga Agencies Vs. Assistant Commissioner (CT), Vadapalani Assessment Circle, Chennai and Another, 2013 SCC Online Mad 323 and in M/s.J.K.M.Graphics Solutions Private Limited Vs. The Commercial Tax Officer, 2017 SCC Online 669.

7.Writ Petition stands disposed of in terms of the above observations. No costs. Consequently, connected Miscellaneous Petitions is also closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer (Addl),
Tindivanam.

+1cc to the Government Pleader, S.R.No.344

W.P.No.14297 of 2016
and
W.M.P.No.12479 of 2016

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