IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.4966 of 2020
& WMP. No.5867 of 2020

M/s.Shri Kamakoti Agencies,
Represented by its Prop. R.Janakiammal
No.578/579 Gandhi Road,
Panruti - 607 103 .. Petitioner

Vs.

1. The Joint Commissioner (ST) (FAC),
Vellore Division, Vellore.

2. The Assistant Commissioner,
Panruti Assessment Circle, Panruti .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorari calling for the records of the first respondent in his proceedings in Ref.A10/41-7/2019, quash the order dated 29.01.2020 made therein.

For Petitioner : Mr.P.V.Sudakar

For Respondents: Mr.ANR.Jayapratap
Government Advocate

ORDER

The petitioner has challenged an order dated 29.01.2020 wherein the Joint Commissioner/R1 expresses his inability to dispose the revision petition filed by the petitioner under Section 84 of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act'). According to him, letter dated 18.03.2019 rejecting the Section 84 application does not constitute an order of rejection of the application.

2. The sequence of dates and events are as follows:

i) An order of assessment was passed on 07.10.2015 for the period 2008-09 reversing the Input Tax Credit (ITC) claimed.

ii) Challenging the same, the petitioner filed W.P.Nos.13589 to 13591 of 2016, which came to be allowed on 12.04.2016 setting aside the order of assessment, pursuant to which, a second order of assessment came to be passed on 01.02.2019.

iii) The petitioner filed a Section 84 application seeking rectification of mistake that received response from the 2nd respondent on 18.03.2019. The response is titled 'reply to the letter received request for revision u/s 84 of the TNVAT Act, 2006'.

iv) Upon a perusal of document dated 18.03.2019, it is clear that it is nothing but an order of rejection of the Section 84 application.

v) The petitioner challenged orders dated 01.02.2019 and dated 18.03.2019 in W.P.Nos.32062 and 32065 of 2019.

vi) This Court, vide order dated 14.11.2019 after setting out the sequence of dates and events, disposed the Writ Petitions granting liberty to the petitioner to file an appeal/revision challenging the impugned orders after complying with all applicable statutory requirements, within a period of two (2) weeks from date of receipt of a copy of that order. It was further directed that upon receipt of such appeal/revision, the concerned authority should consider the same and pass orders on merits without reference to limitation.

vii) An option was thus extended to the petitioner to either challenge order of assessment dated 01.02.2019 or file a revision challenging the rejection of Section 84 application and directions issued to the respondents to consider the appeal without reference to limitation, upon compliance of all statutory formalities.

viii) It is relevant to note that the Commercial Taxes Department was duly represented by the learned Additional Government Pleader (AGP) when W.P.Nos.32062 and 32065 of 2019 were disposed on 14.11.2019, and the learned AGP had proceeded on the basis that document dated 18.03.2019 was nothing but an order rejecting the Section 84 application. There was no challenge raised on whether the same constituted an order amenable to appeal/revision or was merely a communication.

ix) Pursuant thereto, the petitioner filed a revision petition challenging the rejection of the Section 84 application, in response to which the first respondent on

29.01.2020 states the Section 84 application was not disposed and that order dated 18.03.2019 was only a letter.

3. This argument is entirely misconceived as, in my view, communication dated 18.03.2019 is nothing but an order rejecting the Section 84 application.

4. In the light of the aforesaid and since communication dated 18.03.2019 is an order of rejection of Section 84 application, the petitioner is directed to re-present the revision petition before the first respondent within a period of two (2) weeks from today. Upon receipt thereof, the same shall be taken up for hearing and disposed by the first respondent as expeditiously as possible after hearing the petitioner.

5. This Writ Petition is allowed. No costs. Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Joint Commissioner (ST) (FAX),
Vellore Division, Vellore.

2. The Assistant Commissioner,
Panruti Assessment Circle, Panruti.

+1cc to Special Government Pleader, sr no.1362

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RSI(CO)
RMP(04/02/2021)