IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2021

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THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.No.35514 of 2015
and M.P.Nos.1 and 2 of 2015

M/s.IFB Industries Ltd.,
Rep., by its Authorised Signatory,
Mr.Asish Singh,
No.L1, Vena Elections City,
Verna Salcete, Goa-403 722. .. Petitioner

-vs-

1.The Deputy Commercial Tax Officer,
Pattanur Check Post, Villupuram District,
Tamil Nadu-605 006.

2.The Assistant Commissioner (CT)(FAC),
Nungambakkam Assessment Circle,
No.88, Mayor Ramanathan Salai,
Chennai-600 031. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the first respondent in O.R.No.152/2012-13/G.D.No.111/2012-13 and quash the proceedings dated 20.08.2015.

For Petitioner :Mr.V.Sundareswaran

For Respondents :Mr.R.Swarnavel,
Government Advocate (Taxes)

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ORDER

The impugned order dated 20.08.2015, imposing compounding fee under Section 72(1)(a) of the Tamil Nadu Value Added Tax Act, 2006 is under challenge in the present writ petition.

2.The factual dispute, as raised, deserves a complete adjudication by the original authority as well as by the appellate authority and the High Court in exercise of powers under Article 226 of the Constitution of India, cannot adjudicate those issues, facts and circumstances, as there is a provision for revision/appeal, as the case may be.

3.The learned counsel appearing on behalf of the writ petitioner made a submission that the compounding fee is levied by the Checkpost Officer and the files are being under adjudication by the Checkpost Officer. Thus, the files are to be transferred to the regular Assessing Officer, who is competent to consider all the disputed facts and circumstances and pass appropriate orders on merits and by affording opportunity to the parties.

4.The submission, made in this regard, is an acceptable solution in respect of the grievances set out in the present writ petition. With reference to the facts and circumstances, the regular jurisdictional Assessing Officer would be competent to adjudicate the same and with reference to the documents and evidences made available. Once the Assessing Officer passed an order, thereafter, the assessee is aggrieved, then the assessee may seek for appropriate remedy under the provisions of the statute. In view of the facts and circumstances, this Court is inclined to pass the following orders:-

(i) All the files pertaining to the case of the petitioner in this writ petition are directed to be transferred to the jurisdictional Assessing Officer, who in turn, shall adjudicate the issues by following the procedures contemplated under the Act and Rules and by affording opportunity to the assessee and pass appropriate assessment orders in the manner known to law;

(ii) The said exercise is directed to be done by the Assessing Officer within a period of three months' from the date of receipt of a copy of this order; and

(iii) The petitioner is directed to cooperate with the Assessing Officer for passing of the order as expeditiously as possible and unnecessary adjournments should not be resorted to by either of the parties.

5.With the above observations and directions, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

abr

To

1.The Deputy Commercial Tax Officer,
Pattanur Check Post, Villupuram District,
Tamil Nadu-605 006.

2.The Assistant Commissioner (CT)(FAC),
Nungambakkam Assessment Circle,
No.88, Mayor Ramanathan Salai, Chennai-600 031.

+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.24630
+1cc to Special Government Pleader(Taxes), S.R.No.25067

W.P.No.35514 of 2015

PP(CO)
CB(29/06/2021)