IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

WP.NO.17369 OF 2021
AND
WMP.NO.18413 OF 2021

[VIDEO CONFERENCING]

M/s.Paarkar Minerals
Represented by its Proprietor
Mr.S.Partiban
No.54/55, Espeeya Homes
Behind Cheran Nagar
GN Mills Post
Coimbatore – 641 029. ....Petitioner

-Vs-

Office of the Assistant Commissioner (C.T)
Thudiyalur Circle
Coimbatore – 641 018. .....Respondent

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondent bearing impugned notice dated 28.06.2021 and quash the same and to further direct the respondent to consider the petitioner's petition dated 18.07.2018.

For Petitioner : Mr.S.Sathiyanarayanan

For Respondents : Mr.Richardson Wilson, AGP.,

ORDER

The petitioner has challenged the impugned demand notice seeking to attach the property of the petitioner. It is the specific case of the petitioner that the petitioner has been wrongly assessed to tax at 14.5% when indeed the petitioner was liable to pay tax only at 5% vide assessment order dated

13.10.2014.

2.The learned counsel for the petitioner submits that the petitioner has filed a petition under Section 84 of TNVAT Act, 2006 as early as 18.07.2018 and therefore, the impugned notice dated 28.06.2021 was without jurisdiction.

3.Opposing the prayer, learned Additional Government Pleader appearing for the respondent submits that the impugned order is valid and the recovery proceedings are to be initiated, as the assessment order has not been stayed. The learned Additional Government Pleader appearing for the respondent further submits that the petition under Section 84 of TNVAT Act, 2006 is also not maintainable, as there is no error apparent on the face of the record and therefore, the petitioner ought to have filed an appeal before the Appellate Commissioner. It is therefore submitted that in the absence of stay, there is no impediment for proceeding against the petitioner in terms of the impugned order.

4.Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and perused the impugned notice dated 28.06.2021 and the assessment order dated 30.10.2014 for the assessment year 2010-11.

5.Considering the fact that the petition filed by the petitioner under Section 84 of TNVAT Act, 2006 is pending before the respondent, this writ petition is disposed by directing the respondent to pass appropriate orders on merits and in accordance with law on the petition filed by the petitioner under Section 84 of TNVAT Act, 2006 within a period of 45 days from the date of receipt of a copy of this order.

6.Pending such exercise, the impugned notice dated 28.06.2021 shall be kept in abeyance.

7.The Writ Petition stands disposed of in terms of the above observations. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

pgp

To

Office of the Assistant Commissioner (C.T)
Thudiyalur Circle
Coimbatore - 641 018.

+1cc to the Special Government Pleader(Taxes), S.R.No.64740

W.P.No.17369 of 2021

PL(CO)
PM/21/12/2021