BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **15.06.2021**

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.7809 of 2021

A1 Shoe Mart,
Represent by its Proprietrix M.Rakku
No.34, Murugananthapuram,
Karur. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Karur (North) Assessment Circle,
Commercial Tax Building,
Karur. ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the respondent to consider the representation, dated 26.12.2020 within stipulated period as may be fixed by this Court.

For Petitioner	:	Mr. Karunakar. S.
For Respondent	:	Mr. P.Thilakkumar Standing Counsel

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Mandamus, to direct the respondent to consider the representation of the petitioner, dated 26.12.2020.

2. The case of the petitioner is that the respondent had issued a Notice in CST 1082288/2014-15, dated 09.09.2015 stating that the petitioner has not submitted the monthly returns for the month of April to December 2014 and also not paid tax due for the months of February and March 2015. On receiving the notice, dated 09.09.2016, the petitioner had filed a detailed representation, dated 29.09.2016, stating that she had filed monthly returns properly and there is no interstate sales turnover for the month of April to December 2014. It is submitted that the petitioner had by mistake and oversight filed the CST returns in Form-I, for the month of February and March 2015 wrongly and later, realizing the mistake had filed a manual revised return, by correcting the turnover for the month of February and March 2015 and furnished the copies of the revised return for April to December 2014. Further the petitioner submitted that even after receipt of the representation, dated

29.09.2016 and 05.10.2016 with records to prove the fact that there was no discrepancy, as stated by the respondent, to her shock and surprise, the respondent had confirmed the proposal vide his proceedings in CST 1082288/2014-15, dated 31.10.2018 by stating that for the above sales made by the dealer, they have not submitted the declaration forms for their concessional claim. Hence, a notice was issued to the dealer on 09.01.2018, which was received by the dealer on 11.01.2018, calling objection / availing personal hearing or filing of declaration Form.

3. The learned counsel appearing for the petitioner would submit that on receipt of the notice, dated 09.01.2018, the dealer neither failed to file their objection / availing personal hearing nor the declaration form. Hence, the notice sent to dealer was confirmed and dealer have been assessed, which is a clear case of violation of principles of natural justice and non-application of mind. As the order was passed without considering the reply, the petitioner had filed a representation, dated 26.12.2020, requesting the respondent to reopen the assessment, verify the records and pass orders under Section 84 of the TNVAT Act, by rectifying the defects.

4. The learned Standing counsel appearing for the respondent would submit that the representation of the petitioner will be considered within a time frame to be stipulated by this Court.

5. I have heard the submissions made by the learned counsel appearing on either side and perused the materials available on record.

6. The respondent being a statutory authority is expected to discharge statutory functions in accordance with Section 84 of the TNVAT Act. It appears that the petitioner has repeatedly approached the respondent in person and requested to consider the representation, dated 26.12.2020, but the same has not yet been considered.

7. Considering the submissions made by the learned counsel appearing for the petitioner as well as the respondent it would be appropriate to direct the respondent to dispose of the representation of the petitioner, dated 26.12.2020.

8. Accordingly, the respondent is directed to dispose of the representation of the petitioner, dated 26.12.2020, on merits, and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order.

9. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Assistant Commissioner (ST),
Karur (North) Assessment Circle,
Commercial Tax Building,
Karur.

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-19408 [F] dated 16/06/2021)

+1 CC to M/s.SPL GP (SR-19542[F] dated 17/06/2021)

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KB(24.06.2021) 3P 4C