BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.04.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.(MD)No.7998 of 2021

Tvl.Karur Pharmacy,
Represented by its Proprietri N.Sasikala,
No.70, Covai Road,
Near Chella Chambers,
Karur. ... Petitioner

Vs.

The Assistant Commissioner(ST),
Karur (South) Assessment Circle,
Karur. ... Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to consider the representation dated 08.02.2021, within stipulated period as may be fixed by this Court.

For Petitioner : Mr.S.Karunakar
For Respondent : Mrs.J.Padmavathi Devi
Special Government Pleader

O R D E R

This Writ Petition has been filed by the petitioner to direct the respondent to consider the petitioner's representation dated 08.02.2021.

2. According to the petitioner, she is an assessee registered with the respondent, holding TIN No.33283682882, under the TNVAT Act. The respondent has passed the original deemed assessment order under Section 22(2) of the TNVAT Act, by accepting a total and taxable turnover of Rs.9,86,723/-, for the assessment year 2014-2015. Subsequently, the respondent has issued a notice during March 2016, proposing to revise the assessment. On receipt of the notice, the petitioner had approached the respondent and explained the fact that though there was huge purchase, she had only effected sales for Rs.9,86,723/- and the balance for Rs.24,64,300/- was reported as closing stock. The respondent gave assurance that they will look into the matter.

3.The grievance of the petitioner is that without considering the petitioner's explanation, the respondent has confirmed the proposal vide proceedings dated 31.03.2016, wherein, it was stated as follows:-

> *"As per departmental web report, the dealer have made purchases to a turnover of Rs.26,54,345/- as per annexure II of the selling dearliers for the year 2014-2015. But they have shown Rs.10,79,396/- as purchase turnover in your annul I-1 return filed. Hence, it was proposed to assess the total/taxable turnover u/s 27(1) (a) of the TNVAT act along with levy of penalty u/s 27 (3) (c)of the TNVAT Act.*

On receipt of the proceedings, the petitioner approached the respondent and once again and explained the facts. Since there was no response on the side of the respondent to rectify the error apparent on the face of the record, the petitioner has given a detailed representation dated 08.02.2021. The learned counsel for the petitioner would seek to consider the petitioner's representation by affording an opportunity of personal hearing to him.

4.The learned Special Government Pleader appearing for the respondent would submit that on verification of the annual scrutiny, cross verification in the departmental web report, the impugned notice came to be passed. Hence, there is no need to interfere with the same.

5.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondent.

6.On perusal of the affidavit filed in support of this Writ Petition, the impugned notice and the detailed representation of the petitioner dated 08.02.2021 would reveal that the original assessment order was passed by the respondent, by accepting the total and taxable turnover of Rs.9,86,723/-, for the assessment year 2014-2015. Subsequently, based on the departmental web report, it was ascertained that the petitioner made purchases to a turnover of Rs.26,54,345/- as per annexure II of the selling dealers and Rs.10,79,396/- was shown as purchase turnover, thereby the respondent proposed to assess the total /taxable turnover under Section 27(1) (a) of the TNVAt Act, along with levy of penalty under Section 27(3) (c)of the TNVAT Act. Pursuant to the impugned notice, the petitioner submitted a detailed reply stating that even though the purchase was made to the tune of Rs.26,54,344/-, Rs.3,84,538 was shown as purchase return and the sales during the relevant period was only Rs.9,86,723/- and the same was properly accounted.

7.In view of the above and considering the factual circumstances of the case, proper consideration in this matter is necessary. Therefore, without adverting to the merits of the case, the respondent is directed to consider the petitioner's representation dated 08.02.2021 and pass appropriate orders, after affording an opportunity of personal hearing to the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order. The Writ Petition is 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 (South) Assessment Circle,
Karur.

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-16191[F] dated 17/04/2021)

W.P.(MD)No.7998 of 2021
17.04.2021

ES(CO)
TR(03.05.2021) 3P 3C