IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2022

CORAM

THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

W.P.No.13503 of 2022
and
W.M.P.Nos. 12683, 12685, 12686 of 2022

M/s.Makey Electricals,
Rep by its Proprietor,
Mr.R.Kesavan,
No.252, Anna Salai,
Arcot, Ranipet District,
Pin Code: 632 503. ... Petitioner

Vs.

1. The Commercial Tax officer,
Now Re- Designated as
The State Tax Officer,
Arcot Assessment Circle, Arcot.

2. The Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai- 600 005. ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus, to call for the impugned proceedings of the first respondent in TIN No.33204580564 /2014-15 dated 30.11.2015 and the subsequent impugned proceedings in Rc.A3.78/2022/TIN:33204580564/ 2014-2015 dated 23.2.2022 and quash both the impugned proceedings and further direct the first respondent to pass a fresh assessment order for the assessment year TIN 2014-2015 after considering the application seeking for revision of assessment received by the respondent on 9.2.2022.

For Petitioner : Mr.Samuel Rupesh Rajkumar

For Respondents : Mr.Richardson Wilson
Additional Government Pleader

O R D E R

It is submitted by Mr.Samuel Rupesh Rajkumar, learned counsel appearing for the petitioner, that these petitions are filed challenging the orders of the first respondent in TIN No.33204580564 /2014-15 dated 30.11.2015 and the subsequent impugned proceedings in Rc.A3.78/2022/TIN:33204580564/ 2014-2015 dated 23.2.2022.

2. It is submitted that the orders of assessment came to be passed on 30.11.2015 on the premise that verification of purchase details revealed that certain purchases made by the petitioner was not been reported, the same was treated as sales suppression and it was proposed to revise the assessment under section 22(4) of TNVAT Act 2006. Though it is submitted by the counsel for the petitioner, that a reply was filed on 30.11.2015, nevertheless there is no material to show that the same has been submitted to the assessing authority. The assessing authority came to pass the impugned order on the premise that there is no objections for confirming the above proposal. Thereafter, after almost six years recovery proceedings was initiated i.e., on 07.12.2021. Pursuant to which the petitioner had filed a rectification petition which has been rejected on the premise that no objections have been filed by the petitioner.

3. Mr.Richardson Wilson, learned Additional Government Pleader takes notice.

4. We find that the above reasoning of the Assessing Authority may not be valid in as much as non-filing of a reply cannot result in denial of the petitioner's right to seek rectification under Section 84 of the TN VAT Act 2006.

5. In the circumstances it is directed that the respondents shall consider the application for rectification under Section 84 of the TN VAT Act 2006 and dispose of the same within a period of six weeks from the date of receipt of the copy of this order after affording a reasonable opportunity including personal hearing to the petitioner, till then the recovery shall be kept in abeyance.

6. With the above observations, the writ Petition stands disposed of with the above directions. No costs. Consequently connected writ petitions are closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

sha/smn

To

1. The Commercial Tax officer,
   Now Re- Designated as
   The State Tax Officer,
   Arcot Assessment Circle, Arcot.

2. The Commissioner of Commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai- 600 005.

+1cc to Mr.P.Rajkumar, Advocate, S.R.No.31982
+1cc to the Special Government Pleader(Taxes), S.R.No.31999

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and
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MT(CO)
SB(21/06/2022)