BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.(MD)No.12294 of 2022
and
W.M.P.(MD)No.8727 of 2022

Tv.Brahma Enterprises,
Survey No.65/2A, Alanganallur Main Road,
Saraswathi Ware House,
Pakkirisamy Pillai Complex,
Pasingapuram, Madurai-18,
Rep.by its Managing Director
K.Senthivel. ... Petitioner

Vs.

Assistant Commissioner (ST),
West Veli Street Circle,
Commercial Tax Building,
Dr.S.V.K.S Thangaraj Salai,
Madurai-625 020. ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned order in Original 33185025029/2016-17 dated 11.11.2021 on the file of the respondent and quash the same and consequently, relieve the petitioner from the liability.

For Petitioner : Mr.K.Senguttuvan

For Respondents : Mr.P.Subburaj
Special Government Pleader.

O R D E R

The order passed by the respondent in Original 33185025029/2016-17 dated 11.11.2021 is under challenge in the present writ petition.

2. The petitioner, who is the Tvl.Brahma Enterprises Private Limited, has reported the total taxable turnover of Rs.6,67,99,898/- and Rs. 6,67,99,898/- respectively for the assessment year 2016-17. On verification of the office records and based on the inspection report, the Assessing Officer had issued a demand notice directing the petitioner to pay a sum of Rs.6,73,517/- (Rupees Six Lakhs Seventy Three Thousand Five Hundred and Seventeen only) towards the tax amount for the assessment year 2016-17 and pay a sum of Rs.3,36,759 (Rupees Three Lakhs Thirty Six Thousand Seven Hundred and Fifty Nine only) towards penalty, as per Sub-section (1) of Section 42 of the Tamil Nadu Value Added Tax Act, 2006.

Thereafter, a recovery notice has been issued by the respondent on 16.05.2022.

3. The learned counsel appearing for the petitioner submits that the petitioner was issued with personal hearing notice on 25.08.2021 and thereafter, he appeared before the respondent on 06.09.2021. He sought certain documentary evidence to the respondent with regard to the stock difference. However, on 11.11.2021, the impugned order was passed by the respondent confirming the proposal, without giving the documents as sought for by the petitioner. He relied on the decision of this Court in the case of ***Tvl.Sri Kumaran Mills vs. The Assistant Commissioner (CT), Avinashi Assessment Circle and other*** in ***W.P(MD).No.23450 to 23455 of 2018*** dated ***02.12.2019.***

4. Mr.P.Subbaraj, learned Special Government Pleader appearing for the respondent submits that the allegations raised by the petitioner are false and the petitioner had appeared before the respondent. On the request

of the petitioner, the documents sought for by them have been handed over to them with acknowledgement and the acknowledgement has also been produced before this Court.

5. From the submission made by the learned Special Government Pleader appearing for the respondents, it is seen that the documents sought for by the petitioner for verifying the stock differences have been handed over to the petitioner. Therefore, the petitioner has to file an appeal before the appropriate Authority. Instead of that, he has filed the present writ petition challenging the order passed by the respondent dated 11.11.2021. Hence, this Writ Petition is dismissed, by directing the petitioner to file an appeal before the appropriate Authority within a period of three weeks from the date of receipt of a copy of this Order. No costs.

30.06.2022

Index : Yes / No
Speaking Order : Yes / No
ssb

To

Assistant Commissioner (ST),
West Veli Street Circle,
Commercial Tax Building,
Dr.S.V.K.S Thangaraj Salai,
Madurai-625 020.

M.NIRMAL KUMAR, J.

ssb

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