BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2022

CORAM

THE HONOURABLE **MR.JUSTICE MOHAMMED SHAFFIQ**

W.P.(MD)No.26510 of 2022
and
W.M.P(MD).Nos.20680 and 20681 of 2022

Tvl.Alex Traders,
Rep., by its Proprietor Alexander,
No.12-8-59(14), Vaaraguna Ramapuram,
Near Hindhu Nadar Marriage Hall,
Surandai 627 859,
Tenkasi District. ... Petitioner

Vs.

The Assistant Commissioner (ST) (FAC)
Tenkasi Assessment Circle,
Tenkasi District. ... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records on the file of respondent vide proceeding in TIN: 22655684419/2015-16 dated 12.05.2022 and quash the same as illegal and devoid of merits.

For Petitioner : Mr.Raja.Karthikeyan

For Respondent : Mr.M.Ramesh
Government Advocate

O R D E R

The writ petition has been filed to challenge the assessment order in TIN: 22655684419/2015-16 dated 12.05.2022 passed by the respondent.

2.Heard Mr.Raja.Karthikeyan, learned counsel appearing for the petitioner and Mr.M.Ramesh, learned Government Advocate, who takes notice for the respondent.

3.By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4.It is the submission of the petitioner that the petitioner is running a business in the name of 'Tvl.Alex Traders' and regularly filing returns. The respondent had passed revision of assessment order for the year 2015-2016 under TNVAT Act on 10.01.2022, thereafter, the petitioner came to know that the claim of ITC of two concerns/companies, namely Tvl.The Vccforces Sales Corporation , (TIN:33835780156) and Tvl.Parlc Biscuits Pvt.Ltd., (TIN:33743320819) was rejected on the ground of non-furnishing of invoice and other details in support of claim of ITC. The petitioner conducted cross-verification with its supplier / seller, it was found that the date and month of petitioner's purchase were wrongly mentioned in their Annexure-1 of VAT Form-1 return for the month of May-2015 instead of May 2014 and the same was reported to the respondent with invoice and bills. Thereafter, the respondent, after cross-verification with Annexure of Tvl.The Vccforces Sales Corporation (TIN:33835780156), accepted the claim of ITC. In respect of Tvl.Parlc Biscuits Pvt.Ltd., is concerned, the petitioner requested the respondent for cross-verification with its supplier/seller. The respondent sent request for cross-verification to Hosur assessment circle vide letter A1/81/2004 dated 06.02.2022. While that being so, before getting verification report, the respondent had passed the impugned assessment order and thereby, fixed tax liability of Rs.59,471/-, penalty Rs.29,736/-.

5.It is the further contention of the petitioner that the respondent ought to have waited for the report from the Hosur assessment circle and the impugned order, having been made even before receipt of the said report, is un-sustainable. Hence, the petitioner prayed to quash the impugned assessment order.

6.It is the submission of the learned Government Advocate that the same assessment would be redone after providing the petitioner reasonable opportunity.

7.In view of the above, the impugned assessment order in TIN: 33655684419/2015-16, dated 12.05.2022 is set aside. The respondent is directed to redo the assessment of the petitioner for the year 2015-2016, after giving an opportunity to the petitioner.

8.With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

24.11.2022

Index : Yes / No
Internet:Yes/No
Rmk

To

The Assistant Commissioner (ST) (FAC)
Tenkasi Assessment Circle,
Tenkasi District.

MOHAMMED SHAFFIQ, J.

Rmk

W.P.(MD)No.26510 of 2022

24.11.2022