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W.P.No.8109 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.03.2023

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.8109 of 2023
& W.M.P.No.8359 of 2023

M/s. Phoenix Medical Systems Pvt Ltd
Represented by its Chief Financial Officer
Mrs.C.Jagadeeswari
DP 42, SIDCO Industrial Estate,
Thirumudivakkam, Chennai – 600 132.

... Petitioner

Vs

The Assistant Commissioner (ST) (FAC)
K.K.Nagar Assessment Circle,
5th Floor, PAPJM Annexe Building,
No.1, Greams Road, Chennai – 600 006.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in the impugned recovery notice TIN 33421420474/2017-18/CST 588887 dated 03/02/2023 in the file of the respondent and quash the impugned recovery notice TIN 33421420474/2017-18/CST 588887 dated 03/02/2023 issued by the respondent and direct the respondent to dispose of the rectification letter dated 15/07/2019 filed by the petitioner in accordance with law.

For Petitioner : Mr.P.Purushotham
For Respondent : Ms.Amirtha Poonkodi Dinakaran
Government Advocate



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ORDER

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Ms.Amirtha Poonkodi Dinakaran, learned Government Advocate accepts notice for the respondent and is armed with instructions to enable this Court to dispose the matter finally, even at the stage of admission.

2. The petitioner, an assessee under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') challenges a recovery notice dated 03.02.2023 seeking to recover the demand raised under order of Central Sales Tax assessment for the period 2017–2018. Several grounds have been raised which touch upon the merits of the demand.

3. The assessment is dated 25.06.2019 and the petitioner has filed application for rectification on 15.07.2019. However, the application, though addressed to the Assessing Officer in K.K.Nagar Assessment Circle, appears to have been filed before the Assessing Officer in the Saidapet Circle. Hence it remains static thus far, as it has been filed before the wrong officer.

4. Upon receipt of the recovery notice, the petitioner drawn the attention of the respondent to the pendency of the rectification application and it was only at that juncture, that it was noticed that the application had been filed before the wrong forum.

5. Ms.Amirtha would point out that the petitioner's application for rectification of the assessment has now been transferred to the respondent



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Officer at K.K.Nagar Assessment Circle. She assures the Court that the petitioner will be heard and the rectification application disposed expeditiously.

6. Thus, it would suffice that a direction is issued to the Assessing Officer to issue notice to the petitioner, hear him and pass orders on the rectification application filed under Section 84 of the Act, within a period of eight (8) weeks from the date of receipt of copy of this order.

7. This Writ petition is disposed as above. No costs. Consequently, connected miscellaneous petition is closed.

16.03.2023

Index : Yes / No

Speaking/non-speaking Order

Neutral Citation: Yes/No

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To

The Assistant Commissioner (ST) (FAC)

K.K.Nagar Assessment Circle,

5th Floor, PAPJM Annexe Building,

No.1, Greaves Road, Chennai – 600 006.



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Dr.ANITA SUMANTH,J.
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