IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.23090 of 2023
and
W.M.P.Nos.22629 and 22630 of 2023

Cibi Textiles Private Limited,
Represented by its
Authorized Signatory NB Anand ... Petitioner

Vs.

1.The Appellate Deputy Commissioner (ST),
Office of the Appellate Deputy Commissioner,
Tamil Nadu Value Added Tax Act, 2006,
Tirupur.

2.The Assistant Commissioner (ST),
Office of the Assistant Commissioner,
Tirupur Rural-II Circle,
Tirupur. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the demand order in TIN : 33292387199/2014-2015 dated 03.03.2022 issued by the second respondent and quash the same as void, illegal and unconstitutional and direct the second respondent to make a fresh order after giving an opportunity of being heard to the petitioner.

For Petitioner : Ms.Rathidevi

For Respondents : Mr.V.Prashanth Kiran
Government Advocate

ORDER

Mr.V.Prashanth Kiran, learned Government Advocate takes notice on behalf of the respondents.

2. The petitioner has challenged the impugned Assessment Order bearing TIN No.33292387199 dated 03.03.2022 for the Assessment Year 2014-2015.

3. By the impugned Assessment Order, the petitioner has been called upon to pay a sum of Rs.17,98,841/- as tax due for the Assessment Year 2014-2015 in terms of formula made under Section 19(5)(c) of the Tamil Nadu Value Added Tax (TNVAT) Act, 2006.

4. It is the specific case of the petitioner that the aforesaid order has been passed in gross violation of principles of natural justice as it precedes only a notice dated 06.11.2020.

5. The further case of the petitioner is that the order has been passed is a non-speaking order as there is no discussion.

6. The learned counsel for the petitioner would submit that the petitioner has all the records to substantiate that the petitioner has obtained both Form-C and Form-F for the interstate transactions and for the stock transactions effected by the petitioner.

7. This Writ Petition is opposed by the learned Government Advocate for the respondents on the ground that the order is dated 03.03.2022. It is submitted that the order was communicated and was also acknowledged to the respondents inasmuch as by letter dated 09.03.2022, the petitioner has sent a representation stating that all the required documents are available for the Assessment Years 2014-2015.

8. It is further submitted that the writ petition at the stage cannot be countenanced in the light of the decision of the Hon'ble Supreme Court in **Assistant Commissioner (CT) LTU, Kakinada and others** Vs. **Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC Online SC 440.

9. That apart, it is submitted that the petitioner is also in arrears of tax due of Rs.42,50,896/- for the Assessment Years 2014-2015, 2015-2016 and 2016-2017 under the Central Sales Tax (CST) Act, 1956, including tax due of Rs.17,98,841/- for the Assessment Year 2014-2015 under the TNVAT Act, 2006.

10. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondents.

11. This Writ Petition is disposed of at the time of admission with the consent of the learned counsel for the petitioner and the learned Government Advocate for the respondents by directing the petitioner to approach the respondents to consider its representation under Section 84 of the TNVAT

Act within a period of four weeks from the date of receipt of a copy of this order.

12. Pending disposal of the petitioner's representation/application under Section 84 of the TNVAT Act, recovery of the amounts confirmed by the second respondent in the impugned Assessment Order dated 03.03.2022 under the TNVAT Act for the Assessment Year 2014-2015 alone shall be kept in abeyance. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

07.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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C.SARAVANAN, J.

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To

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