BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.03.2023

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD)No.7029 of 2023

Tvl. Arulmani Enterprises,
Rep. by its Proprietrix S. Porkodi,
No. 2/1301-C, Muthuramalingapuram Colony,
Sivakasi
... Petitioner

Vs.

The Deputy State Tax Officer – I,
Commercial Tax Building,
Sivakasi. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondent to consider the representation dated 06.10.2022 within stipulated time fixed by this Court.

For Petitioner	:	Mr.S. Karunakaran
For Respondent	:	Mr.D. Ghandiraj Special Government Pleader

ORDER

The writ petition is filed for issue of a writ of mandamus directing the respondent to consider the petitioner's representation dated 06.10.2022.

2. The facts which have preceded to the filing of the writ petition are as follows.

2.1. The petitioner Company represented by its Proprietrix, namely, S.Porkodi, is dealing with passport size photo cover and and is an assessee under the Tamil Nadu Value Added Tax Act, 2006 (herein after referred as 'TNVAT Act').

2.2. It is their case that for the assessment year 2014-15, they had submitted their returns on self assessment basis under Section 22(2) of the TNVAT Act. On 23.01.2020, they received a notice from the respondent stating that on further verification it is noticed that the they had effected interstates sales, for which, reversal of ITC under Section 19(5)(c) of the TNVAT Act was not made and further sale of photographic camera has been made from November 2014 to March 2014 (sic; 2015) to the tune of Rs.3,76,077/- and paid tax at the rate of 5% instead of 14.5%. Ultimately, the respondent had demanded a tax of Rs.7,54,599/-. This notice was not immediately responded to since the Proprietrix was going through some problems. Therefore, the impugned order dated 03.09.2020 was passed stating that tax to the tune of Rs. 73,452/- was due and after adjusting ITC and the tax already paid, a sum of Rs.35,758/- was due.

2.3. The Petitioner Company had immediately sent a detailed representation dated 06.10.2022, as to how the order in question is erroneous and requesting the respondent to pass a revised order under Section 84 of the TNVAT Act, by rectifying the mistake. It was submitted that the error had occurred only on the account of wrong commodity code that was fed in. They would submit that they are in no way engaged in the business of Readymade Garments and Photographic

Camera. There are only selling passport size photo cover which is liable to be taxed at 5%. The said representation has not been disposed to date. Therefore, this writ petition.

3. Heard the learned counsel on either side.

4. Considering the limited scope of this writ petition, wherein the petitioner seeks a direction to the respondent to consider the representation, this writ petition is disposed of with a direction to the respondent to consider the representation of the petitioner dated 06.10.2022 and dispose of the same within a period of six weeks from the date of receipt of a copy of this order. No costs.

30.03.2023
(1/2)

NCC:Yes/No
Index:Yes/No
Speaking/Non-speaking order

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To

The Deputy State Tax Officer – I,
Commercial Tax Building,
Sivakasi.

P.T.ASHA, J.

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W.P.(MD)No.7029/2023

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