IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 08.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.2709 of 2024
and W.M.P.Nos.2987 & 2988 of 2024

Tvl.The Watch Galaxy,
Rep by its Managing Partner
Maruthi Complex,
No.209, Omalur Main Road,
Opp. to New Bus Stand
Salem 636 004. ... Petitioner

-vs-

State Tax Officer
Alagapuram Assessment Circle
Salem. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the entire records relating to the order in TIN: 33632846404/2015-16 dated 17.11.2021 read with order in TIN: 33632/2015-16 dated 31.07.2023.

For Petitioner : Mr.T.Ramesh

For Respondent : Mr.TNC.Kaushik, AGP (T)

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ORDER

The petitioner assails both an assessment order dated 17.11.2021 and the subsequent order dated 31.07.2023 in the rectification application of the petitioner.

2. The petitioner was a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) and the Central Sales Tax Act, 1956. In relation to assessment year 2015-16, a revision was proposed and an *ex parte* assessment order dated 17.11.2021 came to be issued. On the ground that there were errors apparent on the face of the record, the petitioner applied for rectification under Section 84 of the TNVAT Act. The said application was rejected on the ground that it is beyond the scope of Section 84. This writ petition was filed in the said facts and circumstances.

3. Learned counsel for the petitioner invited my attention to the communication dated 30.08.2023 and pointed out that the order rejecting the request for rectification was made without taking into account documents forming part of the record. For instance, he submits that the assessment order was issued on the assumption that the petitioner had stopped carrying on business from 01.04.2016, whereas the petitioner had continued to carry on business, filed monthly returns for 2016-17 and paid taxes. He also referred to the request letter dated 10.07.2023 and pointed out that the issues raised in such communication were not considered in the impugned order.

4. Mr.TNC.Kaushik, learned Additional Government Pleader, accepts notice for the respondents. He submits that the scope of rectification is limited to errors apparent on the face of the record. Therefore, unlike in an appeal, learned Additional Government Pleader submits that re-appraisal of evidence is not permissible. He

also points out that the petitioner should have either filed a statutory appeal or sought revision under Section 54 of the TNVAT Act.

5. As contended by learned Additional Government Pleader, the scope and ambit of rectification proceedings cannot be equated with an appeal. Nonetheless, while dealing with a rectification petition, the assessing officer is required to examine the record and ascertain whether there are patent errors. In the case at hand, on examining the impugned order, the assessing officer has set out each contention of the assessee and thereafter recorded that these details were submitted more than two years after the assessment order was issued. For such reason, the assessing officer declined to exercise jurisdiction by stating that the assessment order cannot be modified by him. Thus, it appears that the assessing officer did not examine whether the information and documents placed before him by the assessee were already part of the record at the time of issuance of the

assessment order. For such reason, the order rejecting the request for rectification calls for interference.

6. Therefore, the order dated 31.07.2023 is quashed and the matter is remanded for re-consideration. The assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and examine the record to determine whether there is a patent error or an error apparent on the face of the record. This exercise shall be concluded within a period of ***two months*** from the date of receipt of a copy of this order.

7. W.P.No.2709 of 2024 is disposed of. No costs. Consequently, W.M.P.Nos.2987 and 2988 of 2024 are closed.

08.02.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

SENTHILKUMAR RAMAMOORTHY,J

rna

To

State Tax Officer
Alagapuram Assessment Circle
Salem.

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and W.M.P.Nos.2987 & 2988 of 2024

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