IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.3981 of 2022
and
W.M.P.Nos.4125 and 4126 of 2022

Tvl.Keerthana Traders,
Rep by its Proprietorix – R.Rani
A.C.Chetty Street,
Nagarsampatti,
Pochampalli (TK), Krishnagiri – 635 204. ... Petitioner

Vs.

The State Tax Officer (ST),
Krishnagiri – II Circle,
Krishnagiri. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the file of the respondent in its impugned proceedings made in TIN: 33263304399/2014-15 dated 28.01.2020 quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mr.V.Prasanth Kiran
Government Advocate

ORDER

This writ petition is directed against the impugned Assessment order dated 28.01.2020 passed for the Assessment Year 2014-2015.

2. The case of the petitioner is that the petitioner had originally filed regular returns under Section 21 read with Rule 7(1) of the TNVAT Rules, 2007. However, for the month of June 2014, October 2014, January 2015 and March 2015, the petitioner filed a revised return on 22.07.2024, 20.11.2014, 20.02.2015 and 20.04.2015 respectively. After filing the revised returns, the further case of the petitioner is that the petitioner had also filed a certificate issued by the Chartered Accountant in Form "WW" as is required under Section 63-A of the TNVAT Act, 2006. However, the respondent has passed the impugned order stating that the petitioner had not filed any revised return on the dates mentioned above and that the seal found in the returns were bogus seal and has finalised the impugned order on 28.01.2020.

3. Today, when the case was taken up for hearing, the learned counsel for the petitioner demonstrated the seal of the VAT Department in the respective revised returns as also the delivery book bearing signature of the officer concerned.

4. On the other hand, the learned Government Advocate for the respondent would submit that the respondent has given letter dated 26.02.22, wherein, it has been stated as follows:-

> *(1) The signature found in the Acknowledgement does not match with the signature of officer/staff who worked in the office during the period mentioned in the acknowledgement. This is based on the report of the Jurisdictional officer Assistant Commissioner (ST), Krishnagiri – 1.*
>
> *(2) The case may be defended in favour of the state.*

5. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondent.

6. The impugned order has been passed during the period when Indian Evidence Act, was in force. Section 114(F) of the Indian Evidence Act reads as under:-

> "*Section 114. Court may presume existence of certain facts – The Court may presume the existence of any fact, which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.*
>
> *As to illustration (f) – The question is, whether a letter was received. It is shown to have been posted, but the usual course of the post was interrupted by disturbances."*

7. As per Section 114 of the Indian Evidence Act, Court can draw presumption regarding the natural course of event. The court is also able to take judicial cognizance of the practice of the Commercial Tax Department while receiving documents. Acknowledgement were being given on the delivery book. This has been practice all along right from the inception under the provisions of the TNGST Act, 1959 which was later followed under the TNVAT Act, 2006.

8. Considering the same, it is hard to dis-believe that the petitioner would not have filed the returns. That apart, returns filed for the month

of March 2015 on 20.04.2015, the petitioner had earlier paid the tax on 17.04.2015, which is also reflected in the revised returns. Therefore, I am of the view, the impugned order has to be quashed and the matter is remitted back to the respondent to pass a fresh order on merits and in accordance with law. Needless to state, petitioner shall be heard before final orders are passed.

9. This writ petition stands disposed of with the above observations. No costs. Consequently, connected writ miscellaneous petitions are closed.

09.09.2024

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

The State Tax Officer (ST),

Krishnagiri – II Circle,
Krishnagiri.

C.SARAVANAN, J.

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