IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.32104 of 2016 &
WMP Nos. 27849 & 27850 of 2016

R.K.Cotton
rep. by its Proprietor ... Petitioner

vs.

1.The Commercial Tax Officer
Tirupur South Assessment Circle
Tirupur.

2.The Assistant Commissioner (CT)
Tirupur Sough AssessmentCircle
Tirupur.

3.The Branch Manager
Karur Vysya Bank Ltd.,
Main Branch, Kumaran Road
Tirupur. ... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the impugned proceedings of the first respondent in TIN:33832323173/2013-2014dated 31.12.2015 and quash the same as passed contrary to the provisions of the TNVAT Act and against the principles of natural justice.

For Petitioner :Mr.P.Rajkumar

For Respondents :Mr.K.Venkatesh -R1 & R2
Govt. Advocate

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ORDER

Heard Mr.P.Rajkumar, learned counsel is appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate, appearing for the respondents 1 & 2 and with the consent of the learned counsel appearing on either side, the Writ Petition itself is taken up for final disposal .

2.The petitioner has filed this Writ Petition, challenging the order of assessment dated 31.12.2015, passed by the first respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 [TNVAT Act], pursuant to the Field Audit conducted by the Enforcement Wing on 04.08.2015 and 12.08.2015.

3.Though several contentions have been raised by the petitioner challenging the impugned assessment order, the first contention raised by the petitioner is that inspite of the petitioner having given objections to the notice dated 23.10.2015, vide their objection dated 04.12.2015, the first respondent completed the assessment stating that the petitioner has not given any objections. To substantiate the stand that the objections were given, the petitioner produced the copy of the 'Letter Delivery Book'.

4.*Prima facie*, I am of the view that though the acknowledgment said to have been given in the 'Letter Delivery Book', the same is not an authenticated proof, as there is no date seal or the seal of the Office of the respondent. Therefore, this Court does not propose to accept the endorsement in the 'Letter Delivery Book', as agreed proof for submission of the objections. However, in the light of contentions raised by the petitioner that they themselves have reversed the Input Tax Credit, which according to them was wrongly availed, this Court is of the view that a fresh opportunity can be granted to the petitioner.

5.In view of the above, the Writ Petition is allowed, the impugned order is set aside and consequently, the attachment of the petitioner's Bank Account stands lifted and the petitioner is directed to file their objections, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the objections, the first respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

20.09.2016

rpa

To

1.The Commercial Tax Officer
Tirupur South Assessment Circle
Tirupur.

2.The Assistant Commissioner (CT)
Tirupur Sough AssessmentCircle
Tirupur.

T.S.SIVAGNANAM, J.

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