IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 09.04.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.10157 of 2015
And
M.P.Nos.1 and 2 of 2015

M/s.Million Enterprises,
Rep. by its Proprietor,
Mr.G.Subash Chandra Bose
No.17A, North Bazaar, Pattabiram,
Chennai - 600 072. .. Petitioner

Versus

1.The Commercial Tax Officer,
Avadi Assessment Circle,
No.9, Kasturibai Nagar,
2nd Street, Avadi, Chennai - 600 054.

2.The Assistant Commissioner (CT)
Peelamedu North Assessment Circle,
Corporation Complex,
Dr.Nanjappa Road,
Coimbatore - 600 018. .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in TIN.No.33661304427/2013-14, quash the impugned proceedings dated 03/03/2015 and further direct the second respondent to furnish the details requested by the petitioner in petition dated 16/03/2015 and thereafter direct the first respondent to grant an reasonable opportunity including an opportunity of being heard and cross examination of M/s.SKS Industries having TIN No.33732124475 on the file of the second respondent and thereafter pass orders in accordance with the provisions of the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner : Mr.V.Sundareswaran
For Respondents : Mr.V.Haribabu
Additional Government Pleader (Taxes)

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The respondent in the impugned proceedings dated 03.03.2015 has stated among other things that since the dealers have not filed any returns from the date of their registration, a notice dated 18.12.2014 was issued proposing to assess total taxable sales value based on the Website Report available in the Department and the sales value works out to Rs.1,79,92,500/-. A perusal of the impugned proceedings would disclose that main primary reliance was placed upon website report relating to M/s.S.K.S. Industries having TIN No.33732124475.

3.The petitioner has filed an application dated 16.03.2015 under the RTI Act seeking the details relating to the website entries for the sales done by them with M/s.S.K.S.Industries and it was also followed by a reminder dated 23.03.2015. The grievance expressed by the petitioner is that since the respondent has placed reliance upon some material which are not made available to him by the second respondent, the impugned proceedings is liable to be set aside on the ground of violation of principles of natural justice.

4.Heard Mr.V.Sundareswaran, learned counsel appearing for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader (Taxes), accepting notice for the respondents and appearing for the respondents.

5.Perusal of the impugned proceedings would disclose that primary reliance was placed on the website entries relating to M/s.S.K.S. Industries, Coimbatore having TIN No.33732124475 and the assessment notice came to be passed on the basis of the said information. In the considered opinion of the Court, non-furnishing of information, result in prejudice to the petitioner to put forth his defence in proper and effective manner. Hence on the sole ground, warrants interference.

6.In the result, the Writ Petition is allowed and the impugned order dated 03.03.2015 is set aside. The second respondent is directed to furnish copy of the website report relating to M/s.S.K.S.Industries, Coimbatore, having TIN No.33732124475 within a period of two weeks from the date of receipt of a copy of this order to the petitioner. On receipt of the same, the petitioner is directed to furnish his response to the first respondent within a period of two weeks thereafter and the first respondent after receipt of the information, shall provide the petitioner with an opportunity of personal hearing and give a disposal in accordance with law as expeditiously as possible. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ds/pri

To

1.The Commercial Tax Officer,
Avadi Assessment Circle,
No.9, Kasturibai Nagar,
2nd Street, Avadi, Chennai - 600 054.

2.The Assistant Commissioner (CT)
Peelamedu North Assessment Circle,
Corporation Complex, Dr.Nanjappa Road,
Coimbatore - 600 018.

+ 1 cc to Mr.V. Sundareswaran, Advocate SR.19725
.
+ 1 cc Government Pleader Sr.19737

UG(CO)
EU 23.04.2015

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