IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P. NO. 13370 of 2015
and
M.P.No.1 of 2015

M/s.Saravana Stores,
Represented by its
Prop.P.Sivakumar .. Petitioner

-vs-

The Commercial Tax Officer
Vellore (Rural)Circle,
5, Barathidasan Salai,
Fort Round, Vellore .. Respondent

PRAYER : This Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the respondent in his proceedings in TIN 33124322879/ 2012-13 dated 11.03.2015 and quash the same as illegal and pass further orders.

For petitioner : Mr. S.Ramanathan
For respondent : Mr. V.Haribabu. AGP (T)

ORDER

This Writ Petition has been directed against the impugned order dated 11.03.2015 passed by the Commercial Tax Officer, Vellore (Rural) Circle, Vellore.

2. Learned counsel appearing for the petitioner would submit inter alia that the respondent has failed to consider that the show cause notice was issued proposing to reverse the ITC for the reason that the sellers have not paid tax to the Government, even ignoring the reply dated 10.09.2013, enclosing the invoice copies in proof of purchases effected from genuine and active dealers and for payment of tax and that there has been violation of principles of natural justice as provided under Section 27(2) of the TNVAT Act.

3. Mr.V.Haribabu, learned Additional Government Pleader (Taxes) takes notice for the respondent. With the consent of both the parties the matter is taken up for disposal at the stage of admission itself.

4. The petitioner being a registered dealer and an Assessee under the TNVAT and CST Act, received a notice from the respondent in TIN 33124322879/2012-13 dated 29.07.2013 stating that on verification of monthly returns it is found that the Input Tax Credit amount claimed has not been reported by other end sellers. On that basis, the respondent proposed to reverse the ITC of Rs.5,79,815/- besides proposing penalty.

4. The petitioner submitted his reply on 10.09.2013. The impugned order shows that he was not offered with an opportunity of personal hearings. Therefore, on this limited scope, without going into the merits of the matter, as it is a simple case of violation of mandatory conditions mentioned under Section 27(2) to say that no orders shall be passed without giving a reasonable opportunity to show cause against such order, the impugned order is liable to go.

5. Accordingly, the impugned order is set aside and the matter is remanded back to the respondent, to provide an opportunity of personal hearing to the petitioner and thereafter to pass orders on merits, in accordance with law, within a period of two weeks from the date of receipt of a copy of this order. Consequently, the connected M.P is closed. No order as to costs.

avr/srn

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

The Commercial Tax Officer
Vellore (Rural)Circle,
5, Barathidasan Salai,
Fort Round, Vellore.

Copy to:
The Section Officer,
Writ Section,
High Court, Madras.

+ 1 cc to Mr.Ramanathan, Advocate SR 24403

mg(co)
prk27/5

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