

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.13989 of 2015

And

M.P.No.1 of 2015

M/s.Zaby Architectural
Rep by its Proprietor Mohamed Aslam ...Petitioner

Vs.

1.The Assistant Commissioner,
Commercial Tax Department,
Ranipet.

2.The Assessing Authority,
Commercial Tax Department,
Ranipet.

3.The Manager,
Indian Bank, Ranipet.

...Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari calling for the records relating to the order dated 27.10.2014 in TIN 33384282675/2012-2013 on the file of the 1st respondent and to quash the same.

For Petitioner : Mr.K.P.Jotheeswaran

For Respondent : Mr.S.Kanmani Annamalai for R1 and R2
Additional Government Pleader (T)

ORDER

This writ petition has been filed by M/s.Zaby Architectural represented by its Proprietor on the ground that the cryptic impugned order does not show any basis or reason for the respondents to reach a conclusion to refuse the exemption sought for by the petitioner.

2.Heard the learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (T) who takes notice for the respondents 1 and 2.

3.It appears that the petitioner also has not filed reply to the notice. The petitioner is a proprietary concern came to be established from January 2008 and running Architectural business. They also obtained Tax Registration Certificate from the Commercial Tax Department and became a registered dealer under the Tamil Nadu Value Added Tax Act, 2006. The petitioner was also assigned with Tax Identification Number TIN No.33384282675. They are carrying on the architectural works based on the orders placed by the customers including for companies etc. and the works include aluminum partition for offices, structural designing, false roofing and other related works. The petitioner concern has been purchasing the raw materials like mica, bolts, nuts, aluminium channels, glass, plywood, fevicol etc., for architectural works. They are also maintaining bills/invoices for the purchase and sale of goods. It appears that they have also filed their monthly returns based on the bills and also paid tax for the assessment year 2012-13. Whiles, the grievance of the petitioner is that they are entitled to the benefit of exemption under the Tamil Nadu Value Added Tax Act, 2006 with regard to labour charges and other charges as substantiated in the returns filed before the second respondent. But the respondents have rejected the claim of exemption in the impugned order.

4.A mere reading of the impugned order does not show anything as to on what basis the respondent has come to the conclusion that the petitioner is ineligible to claim the exemption under the Act with regard to labour charges and other charges.

5.The learned Additional Government Pleader (T) also is not in a position to support the impugned order as it does not throw any light with regard to the basis upon which the claim of exemption was revised and therefore the impugned order is liable to be set aside on the ground that the same is passed without any reason. Accordingly, the matter is remanded back to the first respondent to re-consider the issue afresh on merits. While doing so, the respondent is directed to provide opportunity of personal hearing.

6.The petitioner is directed to treat the impugned order as notice and shall file a reply within a period of three weeks from the date of receipt of a copy of this order. On receipt of the reply, the respondents shall give personal hearing to the petitioner and thereafter pass orders on merits.

7.Accordingly, the writ petition disposed of. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant Commissioner,
Commercial Tax Department,
Ranipet.

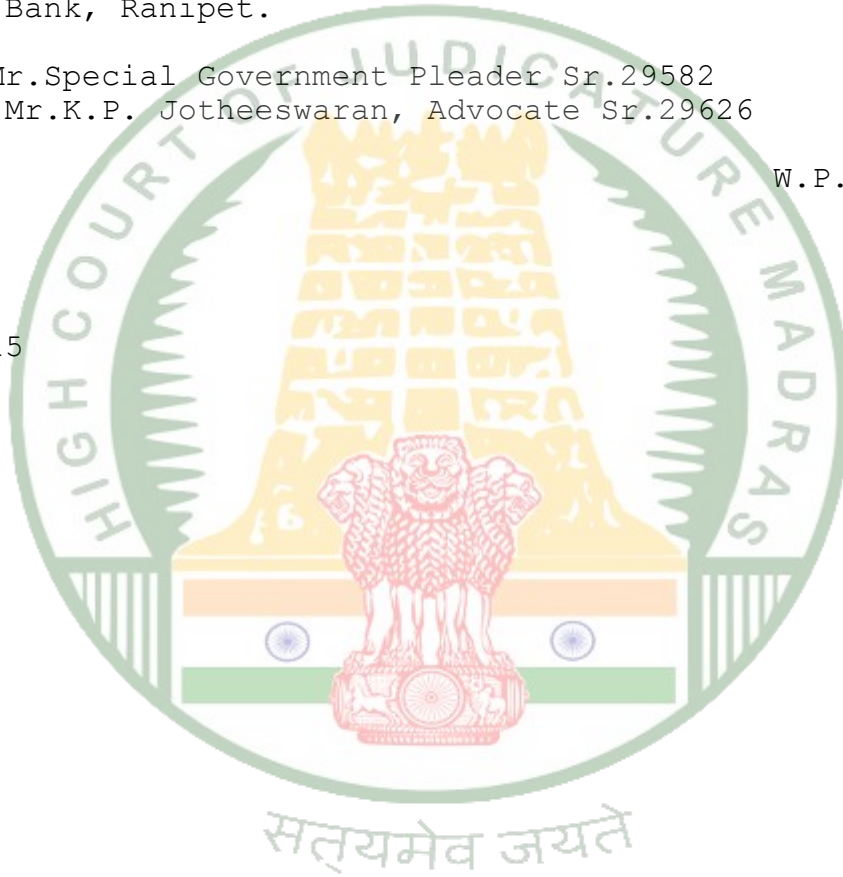
2.The Assessing Authority,
Commercial Tax Department,
Ranipet.

3.The Manager,
Indian Bank, Ranipet.

1 cc to Mr.Special Government Pleader Sr.29582
+ 1 cc to Mr.K.P. Jotheeswaran, Advocate Sr.29626

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GGK(CO)
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