IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.05.2015

CORAM

THE HONOURABLE MR.JUSTICE R. SUBBIAH

Writ Petition No.14413 of 2015
and
M.P.Nos.1 & 2 of 2015

M/s. Sri Devi Bairavi Vilas,
Rep. By its Proprietor - V. Raja,
No.97, M.P.R. Complex,
M.P.R.Nagar Main Road,
Gingee - 604 202,
Tiruvannamalai District. ... Petitioner

Vs.

The Commercial Tax Officer (FAC),
Gingee,
Tiruvannamalai District. ... Respondent

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records on the file of the respondent in his impugned proceedings made in TIN: 33264741745/2012-13 dated 23.12.2014, quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Ms. R. Hemalatha

For Respondent : Mr.S. Kanmani Annamalai
Addl.Govt. Pleader (Taxes)

O R D E R

This writ petition is filed challenging the proceedings issued in TIN: 33264741745/2012-13 dated 23.12.2014 by the respondent and to quash the same as illegal and contrary to the scheme of the Act.

2. The case of the petitioner is that he is a dealer in vessels and an assessee on the files of the respondent in TIN No. 33264741745. For the assessment year 2012-2013, the petitioner filed

Form I returns reporting total and taxable turnover. The respondent issued a notice dated 05.12.2014 wherein it was stated that on verification of the monthly returns filed by the petitioner for the year 2012-2013 and on cross verification of ITC claimed on the purchase (Annexure II of the buyers) with Annexure II of the sellers, it was found that the ITC claimed by the petitioner did not match with the output tax and the same was claimed excessively and therefore, it is proposed to reverse the claim of ITC. Subsequently, the respondent has confirmed his proposals contained in the notice and passed the impugned proceedings, without even stating as to under what section, the said order has been passed. Hence, the present writ petition.

3. The only legal submission made by the learned counsel for the petitioner is that the respondent has passed a non-speaking order and therefore, the same is liable to be quashed.

4. Heard the learned counsel on either side and perused the order under challenge. As rightly contended by the learned counsel for the petitioner, the impugned order is a non-speaking order, as it is bereft of particulars and the same is liable to be set aside.

5. Accordingly, the impugned order is set aside and the matter is remitted back to the respondent for fresh consideration. The petitioner shall submit their objections, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the objections, the respondent shall consider the same and pass a detailed order, on merits and in accordance with law, within a period of four weeks thereafter. The writ petition is disposed of accordingly. No costs. Connected M.P. Is closed.

Sd/-
Assistant Registrar(CS II)/
Vacation Officer

//True Copy//

Sub Assistant Registrar

nv

To

The Commercial Tax Officer (FAC),
Gingee,
Tiruvannamalai District.

+1cc to the Special Government Pleader(Taxes), S.R.No.25148

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MG(CO)
CA(21/05/2015)