IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.05.2015

CORAM

THE HONOURABLE MR.JUSTICE R. SUBBIAH

Writ Petition No.14637 of 2015
and M.P.No.1 of 2015

Tvl.Buildmen Engineers and Contractors
rep.by its Proprietor
43/20, Rajeswari Street
Mehta Nagar, Chennai 600 029. ... Petitioner

Vs.

The Assistant Commissioner (CT) (FAC)
Arumbakkam Assessment Circle
7th Floor, 'Dowlath Towers'
No.59, Taylors Road
Chennai 600 010. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified Mandamus, to call for the records of the respondent in TIN 33041463848/2012-13 dated 23.03.2015; to quash the same and to direct the respondent to pass fresh orders after verifying the books of accounts produced by the petitioner and in accordance with Rule 8(d) of the TNVAT Act, 2006.

For Petitioner : Mr.A.Ravichandran

For Respondent : Mr.S.Kanmalai Annamalai
Additional Government Pleader (Tax)

O R D E R

This writ petition has been filed under Article 226 of the Constitution of India, seeking an order in the nature of Writ of certiorarified Mandamus to call for the records of the respondent in TIN 33041463848/2012-13 dated 23.03.2015; to quash the same and to direct the respondent to pass fresh orders after verifying the books of accounts produced by the petitioner and in accordance with Rule 8(d) of the TNVAT Act, 2006.

2.The case of the petitioner is that the petitioner is a dealer in Works Contract and is a registered dealer under Tamil Nadu Value Added Tax Act, 2006 and also Central Sales Tax Act. The petitioner is filing monthly returns for the assessment year regularly and also paying their taxes in Form I and L. According to the petitioner, inspection was conducted by the Enforcement Wing Officials (Central), Chennai from 14.08.2012 to 17.08.2012 and during such inspection certain defects were noticed by the inspecting officers and based on the same, a revised assessment notice was issued by the respondent proposing to revise the assessment under Section 27 of the TNVAT, Act.

3. The main contention of the petitioner is that in response to the

said revised assessment notice, the petitioner had sent a representation dated 02.01.2015 stating that the respondent had erred in noting that the value of the goods involved in the execution of the works contract will have to be determined by taking into account the value of the entire works contract and deducting therefrom the charges towards labour and service as set out under Rule 8(d) of the TNVAT Rules. However, without following the same and also without giving an opportunity of personal hearing, the respondent has passed the impugned order dated 23.03.2015. Hence, aggrieved over the same, the present writ petition has been filed.

4. In the similar nature of writ petition, this Court by placing reliance upon the judgment of the Division Bench of this Court reported in 2010 33 VST 333 Madras [SRC Projects Private Ltd., rep. by its Chief Executive Officer, Salem Vs. Commissioner of Commercial Taxes, Ezhilagam, Chepauk, Chennai and another], has quashed the order directing the Assessing Authority to consider the objections filed by the petitioner therein and to pass a reasonable order.

5. Hence, following the same, a similar order is passed in this writ petition. Since no personal hearing was given to the petitioner before passing

the impugned order dated 23.03.2015, the same is quashed. The respondent/Assessing Authority is directed to independently consider the objections filed by the petitioner, on merits and in accordance with law and by affording personal hearing to the petitioner, and then pass orders, preferably within a period of eight weeks from the date of receipt of a copy of this order.

6. Accordingly, the writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

14.05.2015
(1/2)

Index: Yes/No
Internet: Yes

vj2

To

The Assistant Commissioner (CT) (FAC)
Arumbakkam Assessment Circle
7th Floor, 'Dowlath Towers'
No.59, Taylors Road
Chennai 600 010.

R. SUBBIAH,J.

vj2

W.P. No.14637 of 2015

14.05.2015
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