IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2015

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.17177 of 2015
and
M.P. No. 1 of 2015

Sree Meenakashi Industries [Petitioner]
rep. by its Partner Mr.G.Babuji
647 T.H.Road Chennai-81

Vs

The Commercial Tax Officer
Tondiarpet Assessment Circle
20, Kummalamman Koil Street
Chennai-81 [Respondent]

PRAYER : This Writ petition is filed under Article 226 of the Constitution of India praying for a Writ of certiorarified mandamus to call for the records of the respondent herein in TIN 33351203087/2014-15 dated 27.4.2015 to quash the same with the direction to redo the assessment along with their objections dated 19.1.2015.

For Petitioner :Mr.R.Kumar
For Respondent :Mr.S.Kanmani Annamalai, AGP(T)

O R D E R

This writ petition has been filed by Sree Meenakashi Industries, represented by its Partner G.Babuji, challenging the impugned order passed by the respondent, the Commercial Tax Officer, Tondiarpet Assessment Circle, Chennai, in TIN 33351203087/2014-15 dated 27.4.2015 and to direct the respondent to redo the assessment along with their objections dated 19.01.2015.

2. Heard Mr.R.Kumar, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes), who took notice for the respondent and with their consent, the main writ petition itself is taken up for final disposal.

3. Learned counsel for the petitioner would submit that the impugned order is challenged on the sole ground of violation of principles of natural justice inasmuch as the same was passed without considering the objections filed by the petitioner.

4. Adding further, learned counsel for the petitioner would submit that the petitioner was issued with notice dated 26.12.2014 and on receipt of the same, he filed detailed objections dated 19.01.2015, but, unfortunately, the respondent, without considering the objections filed by the petitioner, wrongly passed the impugned order.

5. According to the learned counsel for the petitioner, the petitioner is a registered dealer under the Tamil Nadu Value Added Tax Act (hereinafter referred to as the Act) and an assessee on the file of the respondent. The petitioner purchased goods from local registered dealers and claimed input tax credit. It is the contention of the learned counsel for the petitioner that monthly returns are filed through e filing in TNVAT Web Site. During the year 2014-15, the petitioner reported a total and taxable turnover of Rs.24,49,35,749/- and paid the tax after adjusting the input tax claimed by them. Whileso, a notice dated 26.12.2014 was issued by observing that the claim of input tax credit to the tune of Rs.4,22,109/- is not in order since the purchasers were made from registered cancelled dealers. In answering the query raised by the respondent, the petitioner filed their objections dated 19.01.2015, which was submitted on 20.01.2015, by enclosing copies of monthly returns filed by the sellers. However, for the reason best known to the respondent, ignoring the detailed objections, the impugned order was passed, as a result, the petitioner has been put to grave prejudice and inconvenience. This made the petitioner to come before this Court.

6. Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) appearing for the respondent, taking note of the fact that the petitioner has filed a reply dated 19.01.2015, would submit that the same ought to have been considered by the respondent, before passing the final orders.

7. It is not in dispute that the petitioner having received the notice, has filed their objections on 19.01.2015. Unfortunately, it is not known as to why the objections filed by the petitioner on 19.01.2015 have not been taken into account. Hence, this Court is of the considered view that in all fairness, the respondent ought to have considered the objections before passing final orders. As they did not do so, this Court is inclined to interfere with the impugned order.

8. Accordingly, the writ petition is allowed and the impugned order dated 27.04.2015 is set aside on the ground that the respondent while passing the order has violated the principles of natural justice, hence the matter is remanded to the Assessing Officer to pass orders afresh after affording an opportunity of personal hearing to the petitioner.

No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer
Tondiarpet Assessment Circle
20, Kummalamman Koil Street
Chennai-81

+1cc to M/s. R. Kumar, Advocate, S.R.No.29494

+1cc to the Special Government Pleader, S.R.No.29704

ALA(CO)
EU(20/07/2015)

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