IN THE HIGH COURT OF JUDICATURDE AT MADRAS

Dated: 26.06.2015

Coram

The Honourable Mr.JUSTICE T.RAJA

W.P.No.18444 of 2015

Mrs.G.Krishnaveni .. Petitioner

vs.

The Commercial Tax Officer,
Ekkattuthangal Assessment Circle,
No.46, Greenways Road,
2nd Floor, Chennai-600 028 .. 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 entire records of the respondent pertaining to the impugned order and its proceedings dated 11.05.2015 made in proceedings CST/49446/2008-2009 on the file of the respondent and to quash the same.

For Petitioner : Mr.G.Jayachandran

For respondent : Mr.V.Haribabu,A.G.P.

ORDER

This writ petition is filed by one Krishnaveni, challenging the impugned proceedings issued by the Commercial Tax Officer, Ekkattuthangal Assessment Circle in CST/49446/2008-2009, dated 11.5.2015, on the ground that there was no notice whatsoever issued under the proviso to Section 22(4) of the Tamil Nadu Value Added Act, 2006, to conduct an enquiry.

2. Heard the learned counsel for the petitioner and Mr.V.Haribabu, the learned Additional Government Pleader, who takes notice on behalf of the respondent.

3. The learned counsel for the petitioner would submit that so far as the assessment for the year ending 2008-09, the period upto March 2009 is concerned, the impugned order is not sustainable in the light of Section 22(4) of the Tamil Nadu Value Added Tax Act,2006 (hereinafter referred to as the 'Act' in short). That apart, the respondent has passed a cryptic non-speaking order and nowhere in the said order he has mentioned, at least in one single line, either about the case of the petitioner or the reasons for rejecting the application.

4. The learned Additional Government Pleader appearing for the respondent, after going through the 1 1/2 page impugned order having only three columns, and after finding that nowhere in the said order the case of the petitioner has been discussed by the respondent by applying his judicial mind as a quasi-judicial authority, is unable to give any reply in support of the impugned order.

5. In view of the above, the impugned order, as rightly pointed out by the learned counsel for the petitioner, being a cryptic order, without having any basis whatsoever, is liable to be set aside. Accordingly, the impugned order is set aside on the ground that no notice was issued under Section 22(4) of the Act calling upon the petitioner to submit her reply, before passing the impugned order and the matter is remitted back to the respondent for fresh consideration. It is needless to mention that the respondent will issue notice in advance giving personal hearing to the petitioner. It is open to the petitioner to file a detailed reply and thereafter making use of the personal hearing, can represent the matter.

6. The writ petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

True Copy

Sub Assistant Registrar

To

The Commercial Tax Officer,
Ekkattuthangal Assessment Circle,
No.46, Greenways Road,
2nd Floor, Chennai-600 028

+1 cc to Mr.G.Jayachandran, Advocate,SR.31517

+1 cc to Spl.Government Pleader,SR.31700.

Jp(co)
krd 10/7

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