IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.19147 of 2015
and M.P.No.1 of 2015

VNR Infrastructure Ltd.
[Petitioner]
Rep. by P.Anil Kumar Reddy
Accountant
Plot No.5 Old No.4
Stone Flower, Annexure Building
Padmanabha Street, Kodambakkam
Chennai-24. ..Petitioner

Vs

The Assistant Commissioner(CT)
Gummidipoondi Assessment Circle
No.38 GNT Road II Floor
Sri Ganapathy Theatre Complex
Gummidipoondi Chennai-601201.
..Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records relating to the Assessment Order in TIN/ 33831703246/2013-14 dated 13.03.2015 passed by the Respondent quash the same as arbitrary and illegal.

For Petitioner : Mr.Joseph Prabakar

For Respondents: Mr.S.Kanmani Annamalai,
Additional Government Pleader (T)

O R D E R

Heard the 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 is taken up for disposal.

2. The petitioner has come forward with this writ petition challenging the assessment order passed by the respondent dated 13.03.2015.

3. The petitioner, being a dealer in works contract is also engaged in trading iron and steel, doing business at Shop No.91/78, Srinivasachettiar Complex, Gummidipoondi. The petitioner Company was originally registered under TNVAT Act, 2006 and CST Act, 1956, in the Ponneri Assessment Circle and consequent to reorganisation of assessment circles, the assessment of the petitioner Company was transferred to the respondent assessment circle. The petitioner is also filing returns regularly under the TNVAT Act. While so, the Enforcement Wing Officers inspected the place of business of the petitioner Company on 12.02.2014, and based on the inspection report, a notice dated 25.04.2014 was issued. In response to the said notice, the petitioner had prepared detailed objections and when it was ready to submit before the authority concerned, he was informed that since assessment circles are under reorganisation, the same may be submitted before the newly formed assessment circle. Consequent on reorganisation, a notice dated 30.12.2014 was issued to the petitioner which was served on them by registered post. In pursuance of which, the petitioner filed detailed objections, vide letter dated 30.01.2015, which was handed over to the respondent in person on 03.02.2015 under acknowledgement. However, the respondent had passed the impugned order on 13.03.2015, without considering the said objections filed. Further, the respondent failed to consider that the petitioner's are executing Works Contract and paying tax under Section 5 of TNVAT Act and hence as per Rule 8(5)(c), all amounts related to sub-contractor is liable to be deducted. Without considering the same, the respondent levied taxes exorbitantly. Aggrieved over the same, the petitioner is before this Court.

4. The learned counsel for the petitioner would submit that the impugned order has been passed in violation of principles of natural justice, since the respondent has passed the same, without conducting enquiry and considering the detailed objections filed by the petitioner. Hence, he sought for setting aside of the impugned order of assessment.

5. Though various grounds have been raised on merits against the impugned order, the main ground of attack in this case is non consideration of the objections filed by the petitioner dated 30.01.2015, which was handed over on 03.02.2015 under acknowledgement. On the other hand, the Officer who passed the impugned order viz., the respondent, had averred in the impugned order that no objections were filed and hence the proposal was confirmed by him. On this score alone, the impugned order is liable to be set aside.

6. Accordingly, the impugned order passed by the respondent dated 13.03.2015 is set aside and the petitioner is directed to file the copy of the objections to the respondent along with the copy of this order, within a period of two weeks from the date of receipt of

a copy of this order. On such filing of the objections, the Assessing Authority shall proceed to pass orders afresh, on merits and in accordance with law, after affording due opportunity to the petitioner, within a period of six weeks thereafter.

The writ petition is disposed of on the above terms. No costs. Connected miscellaneous petition is closed.

rg

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner(CT)
Gummidipoondi Assessment Circle
No.38 GNT Road II Floor
Sri Ganapathy Theatre Complex
Gummidipoondi Chennai-601201.

+1cc to Mr.Jaseph Prabakar, Advocate, S.R.No.42123

+1cc to the Government Pleader, S.R.No.42119

BVR(CO)
EU(25/08/2015)

W.P.No.19147 of 2015