IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.19295 of 2015

M/s Jain Granites & Projects Pvt.Ltd.,
represented by its Director
89-1, Harrington Road
(Near Pachaiappa's College)
Chennai 600 030 ... Petitioner

-vs-

The Assistant Commissioner (CT)
Amaindakarai Assessment Circle ... Respondent

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the respondent in TIN/33181021548/2012-2013 and quash the impugned order dated 19.5.2015 as passed contrary to the principles of natural justice and further direct the respondent to consider the objections sent with the documents on 31.7.2014 and pass a fresh assessment order in accordance with law.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.A.N.R.Jayapratap
Government Advocate (Taxes)



ORDER

This writ petition has been filed by M/s Jain Granites & Projects Private Limited represented by its Director challenging the impugned order passed by the Assistant Commissioner (Commercial Taxes), Aminjikarai Assessment Circle in TIN/33181021548/2012-2013 dated 19.5.2015, in and by which the respondent determined the tax and confirmed the reversal of input tax credit under the Tamil Nadu Value Added Tax Act, 2006 for the year 2012-13 and issued the demand notice in Form 'O' directing the petitioner to pay the balance amount of Rs.6,69,281/-. The order also shows that the petitioner, if aggrieved, can file an appeal before the Appellate Deputy Commissioner (CT)-VI. But the limited issue raised before this Court by the petitioner shows that after the notice dated 30.10.2013, which was received by the petitioner on 21.3.2014, the petitioner filed a letter dated 2.4.2014 seeking 15 days time to file their reply. Due to some unforeseen reasons, they were unable to keep up with the aforesaid time, therefore, the petitioner sent another letter dated 16.4.2014 seeking time till 31.5.2014 to file their objections indicating that they had received 19 more notices from the respondent, hence, they required some more time. Although by letter dated 30.5.2014, the petitioner again sought for 30 days more time to file their reply, but, in the meanwhile, the petitioner had prepared their detailed reply/objections and sent the same by registered post on 31.7.2014 to the respondent. The learned counsel for the petitioner submitted that the said objections were also received by the respondent. However, nearly after one year from the date of despatch of their objection, the respondent passed the impugned order on 19.5.2015 confirming the proposal mentioned in the notice dated 30.10.2013, citing a reason that the petitioner failed to file their objection even after a lapse of one year, whereas the petitioner's reply was on record by then.

2. This Court, while entertaining the writ petition on the last occasion, directed the learned Government Advocate (Taxes) to take instructions whether the objections said to have been sent by the petitioner by registered post on 31.7.2014 were received by the respondent office. On instructions, the learned Government Advocate submitted before this Court that due to shifting of the office from Kuralagam building to Taylor's Road, the respondent was unable to locate the proof of receipt of the latest reply sent by registered post on 31.7.2014. However, the postal acknowledgment clearly shows that the petitioner had sent a detailed objection for the assessment year 2012-13. Therefore, this Court, without going to the merits of the matter, considering the fact that the petitioner's objection was overlooked, by setting aside the impugned order, hereby directs the respondent to reconsider the matter on the basis of the objection filed by the petitioner by registered post on 31.7.2014. It is made clear that the petitioner shall send one more copy of the objection dated 31.7.2014 along with all the requisite documents within one week from the date of receipt of a copy of this order and thereafter it is for the respondent to consider the same on merits and pass

appropriate orders in accordance with law. With the above direction, the writ petition stands allowed. Consequently, M.P.No.1 of 2015 is closed. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

ss

To

The Assistant Commissioner (CT)
Amaindakarai Assessment Circle
No.57, Taylors Road
Dowlath Tower, 7th Floor
Chennai 600 010

+1cc to Mr.P.RajKumar, Advocate, S.R.No.34650
+1cc to the Special Government Pleader(Taxes), S.R.No.35047

W.P.No.19295 of 2015

BR(CO)
CA(23/07/2015)