IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.21507 of 2015
and M.P.No.1 of 2015

M/s.Sri Kumaran Hardwares,
Rep. By its Proprietor,
No.38, Medavakkam Main Road,
Chennai 600 117.

... Petitioner

-Versus-

The Assistant Commissioner (CT),
Madipakkam Assessment Circle,
Medavakkam, Chennai 600 100.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Certiorari calling for the records of the respondent relating to TIN/33330981356/2010-11 dated 30.04.2015 and to quash the above said proceedings and for a consequential direction to pass revised orders pursuant to the amended provisions of Section 3(4) of the Tamil Nadu Value Added Tax Act, 2006 and and provide an opportunity of personal hearing under compounding scheme.

For petitioner : Mr.C.Baktha Siromoni

For respondents : Mr.S.Manohar Sundaram,
AGP (Taxes)

ORDER

Challenging the revised order of assessment relating to the assessment years 2010-11, the petitioner is now before this court with this writ petition.

2. The case of the petitioner in brief is that the petitioner is a proprietorship concern and dealing in hardware goods. It has got registered as a dealer with the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. In the routine course, the petitioner submitted the returns for the year 2010-2011. While so, the respondent alleging that the petitioner

suppressed the turnover to a larger extent refused to accept the returns and proposed to revise the assessment. Accordingly, a notice came to be issued under Section 27(1)(a) of the TN VAT Act for the year 2010-11 to the petitioner on 12.12.2014. The petitioner, in turn, submitted his reply dated 25.02.2015. But, however, the respondent again issued a notice dated 06.03.2015 proposing to levy higher rate of tax for which the petitioner submitted a detail reply on 31.03.2015 enclosing all the relevant documents. However, not being satisfied with the objections of the petitioner, the respondent passed the impugned order thereby revising the assessment for the year 2010-11. It is this order now under challenge in this writ petition.

3. Heard both sides and also perused the records carefully.

4.Admittedly, a notice dated 12.12.2014 came to be issued to the petitioner by the respondent informing the proposal with respect to revision of assessment and levy penalty under Section 27 (3) of the TN VAT Act relating to the assessment year 2010-11. The petitioner, in turn, submitted his letter dated 25.02.2015 explaining the position along with relevant documents. However, not being satisfied with the same, the respondent issued further notice with a direction to file objections, if any, to the same. Accordingly, the petitioner submitted his objections on 31.03.2015 along with relevant documents. Without considering the same, the impugned order came to be passed revising the assessment.

5. However, as it could be seen from the impugned order, there was no opportunity of personal hearing afforded to the petitioner and the impugned order has been passed without following the principles of natural justice. In view of the above, this court do not want to venture into the other aspects of the case and this court is of the view that on the ground of violation of principles of justice alone the impugned order requires interference at the hands of this court.

6. At this juncture the learned counsel for the petitioner would bring to the notice of this court that pursuant to the interim order of this court dated 20.07.2015, the petitioner paid 10% of the disputed amount and he would pray that the same may be directed to be adjusted against the tax liability of the petitioner.

7. In the result, the writ petition is disposed of, the impugned order is set aside and the matter is remitted back to the respondent for consideration afresh. The petitioner is permitted to file the additional documents, if any, within a period of two weeks from the date of receipt of a copy of this order. On such filing, the respondent shall afford an opportunity of personal hearing to the petitioner and pass appropriate orders within a period of six weeks thereafter on merits and in accordance with law. If the petitioner fails to avail this opportunity, it is open to the authority concerned to pass appropriate orders on merits and in

accordance with law. It is further directed that while passing fresh order, the payment already effected by the petitioner pursuant to the interim order of this court shall be adjusted towards tax liability of the petitioner. No costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

kmk

To

1.The Assistant Commissioner (CT), Madipakkam Assessment Circle, Medavakkam, Chennai 600 100.

1 cc to Mr.C.Baktha Siromoni , Advocate Sr.No.43672
1 cc to Special Government Pleader(Taxes), High Court, Madras.Sr.No.44212

W.P.No.21507 of 2015

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pmk.4.9.2015