

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2015

CORAM:

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN

W.P.No.22678 of 2015

and

M.P.No.1 of 2015

M/s.M.K.M.S.Constructions rep. by
its Managing Partner

Vs

... Petitioner

Commercial Tax Officer,
Tirukoilur, Villupuram District.

....Respondent

Writ petition filed under Article 226 of the Constitution of India for the issuance of writ of certiorari to call for the records of the impugned notices dated 12.03.2015 and 30.06.2015 issued by the respondent and quash the same.

(Prayer amended vide order dated 07.09.2015 in M.P.No.2 of 2015 in W.P.No.22678 of 2015)

For Petitioner : Mr.C.Baktha Siromani
For Respondent : Mr.S.Manoharan Sundaram,
Addl. Govt. Pleader (T)

ORDER

This writ petition has been filed for the issuance of a writ of certiorari to quash the impugned notices dated 12.03.2015 and 30.06.2015.

2.The petitioner is a civil contractor and is also a registered dealer under TNVAT Act, 2006 on the file of the respondent. The petitioner is doing civil construction work to various Departments of Government. The petitioner filed monthly returns for the year 2012-2013 on 31.10.2013, after the receipt of TDS certificates. While so, the respondent issued a notice dated 20.09.2013, based on the WEB report and proposed to levy tax and penalty. The petitioner sent a letter stating that TDS certificate was not received for the year 2012-2013 till September, 2013. The respondent again issued a notice dated 12.03.2015 by relying on the total value of works contract done by the petitioner. Again, the respondent issued a notice dated 30.06.2015 for 2012-2013, without verifying the books of accounts of the petitioner for the year 2012-2013. The petitioner sent a reply dated 06.07.2015 stating that sales tax can be levied on works

contract as per Article 366 (29A)(b) of the Constitution of India read with Section 5(1) of TNVAT Act. Since no action has been taken, the present writ petition has been filed.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent.

4. The respondent issued impugned notices, raising various issues relating to tax deduction etc., The petitioner, on receipt of the notices, filed a reply dated 06.07.2015, wherein, it has been stated as follows:

"In such circumstances, we would like to request you to serve WEB report relied by your office for the purchases for the year 2012-13 as per your re-revised notice dated 30.06.2015 and further we request you to call for our books of accounts to conduct enquiry/verify for the exemption of labour and other charges in works contracts for the year 2012-13 under the rule 8(5)(d) of TNVAT Rules, 2007, hence till then you may defer from passing any further proceeding regarding the assessment of the year 2012-13 and after complying our above said requests, you may grant 30 days time to submit our written response and do the needful."

Sine the request of the petitioner has not been considered, the present writ petition has been filed.

5. Learned Additional Government Pleader, on instructions, submitted that necessary details as required by the petitioner in the representation dated 06.07.2015 will be furnished to the petitioner.

6. In view of the submission made by the learned Additional Government Pleader, this writ petition is disposed of, directing the respondent to consider the representation of the petitioner dated 06.07.2015 and furnish all the details, as required by the petitioner, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the details furnished by the respondent, the petitioner, if so chooses, shall also file additional objections and on such filing of the objections, the respondent shall consider the same and pass orders on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner. The said exercise shall be completed within a period of six weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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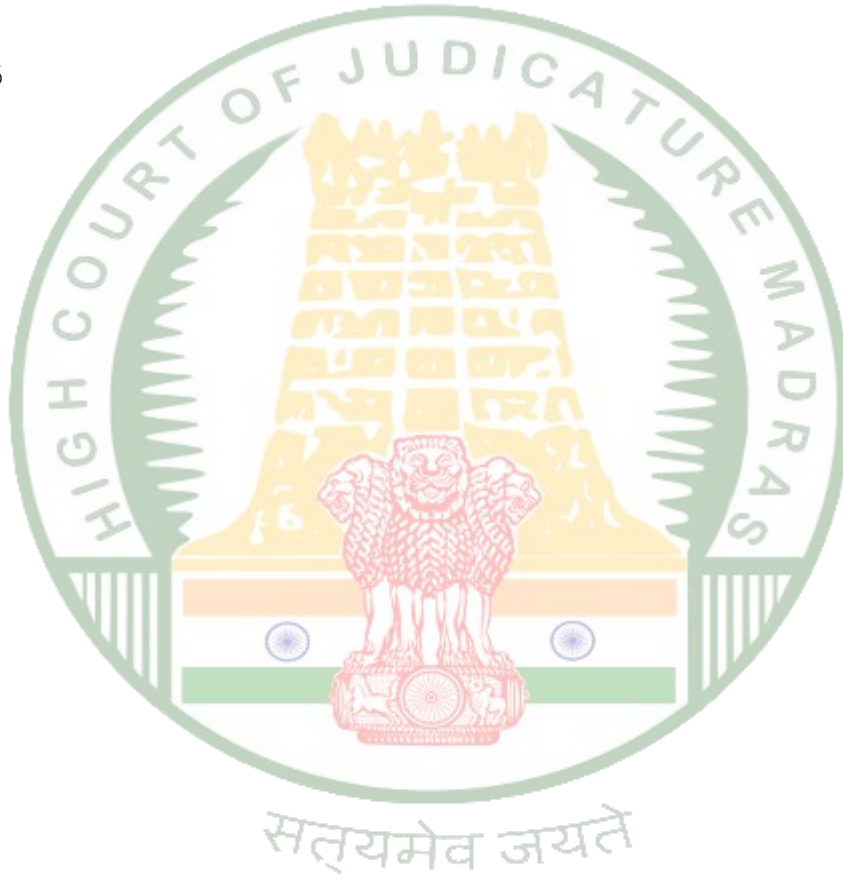
To

The Commercial Tax Officer,
Tirukoilur, Villupuram District.

1 cc to Mr.C.B. Siromani, Advocate Sr.51334
1 cc to Special Government Pleader Sr.51437

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KSJ(CO)
EU 1.10.15



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