IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.8.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.23898/2015 and

M.P.No.1 of 2015

M/s/.Om Sakthi Hardware and Electricals Represented by its Partner No. 1/4 St.Marys Road R.A.Puram Chennai - 600 028 ... Petitioner

Vs

The Assistant Commissioner(CT) Alwarpet Assessment Circle No.46 Greenways Road Chennai - 600 028 ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue writ of certiorari to call for the impugned proceedings of the respondent in TIN/33860760632/2012-2013 dated 6.4.2015 and quash the same as contrary to section 3(4)(b) of the Tamil Nadu Value Added Tax Act 2006.

For Petitioner :Mr.P.Rajkumar
For Respondent :Mr.S.Manohar Sundaram AGP(T)

ORDER

The writ petition is filed for the issuance of a writ of certiorari calling for the impugned proceedings of the respondent in TIN/33860760632/2012-2013 dated 6.4.2015 and quash the same as contrary to section 3(4)(b) of the Tamil Nadu Value Added Tax Act 2006.

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2. Questioning the impugned order dated 06.4.2015, the petitioner has come before this Court. Originally, for the Assessment Year 2012-2013 referring to Section 3(4) of TNVAT Act, a notice was issued on 25.4.2013 wherein a turn over was sought to be assessed at 14.5%. There was no indication in the notice dated 25.4.2013 with regard to levy of penalty. The petitioner filed objections on 25.7.2013 and noticing the defect, a revised notice dated 28.1.2015 was issued. Then again, the petitioner filed detailed

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objections on 31.3.2015 giving purchase related details along with statutory forms and sought to pass appropriate orders.

3. According to the learned counsel for the petitioner, without considering the reply dated 31.3.2015 wherein the petitioner pointed out all the discrepancies available with regard to levy of 14.5% tax on the purchases effected, the respondent has passed the impugned order dated 6.4.2015 levying higher rate of Tax. The levy of penalty was also made invoking Section 27 of the Act. According to the learned counsel, without adducing any finding with regard to the levy of penalty and even without looking into the purchase details relating to sale value arrived at Rs.13,98,357, the impugned order came to be passed. Hence, the learned counsel for the petitioner seeks indulgence of this Court for setting aside the order by providing yet another opportunity to explain all the transactions in detail, with supporting documents.

4. The learned Government Pleader fairly submitted that as far as penalty is concerned, the order is non speaking and hence, an opportunity be provided, so that the petitioner can place all the evidences to the authority.

5. In view of the above, the impugned order is set aside. The matter is remitted back to the respondent for passing fresh orders. The petitioner is permitted to place all the details to the respondent concerned within two weeks along with his reply, if any from the date of receipt of a copy of this order. On receipt of the details, the respondent shall consider the same and pass appropriate orders on merits and in accordance with law within a period of six weeks, thereafter.

6. Writ petition is disposed of. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Assistant Commissioner(CT)
Alwarpet Assessment Circle No.46 Greenways
Road Chennai - 600 028

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+1 cc to Mr.P.RajKumar, Advocate sr.43247/15

+1 cc to Special Government Pleader (Taxes) sr.43607/15

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