IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.24011 of 2015
and
M.P.No.1 of 2015

M/s.Sunshine Sole Power Generation Ltd.,
Rep. By its Authorised Signatory,
No.70, New No.36, Sembudoss Street,
Chennai 600 001. ... Petitioner

-Versus-

The Assistant Commissioner (CT),
Broadway Assessment Circle,
Chennai. ... 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 33626267648/2014-15 dated 21.04.2015 and to quash the above said proceedings as illegal and contrary to law.

For petitioner : Ms.C.Rekha Kumari

For respondents : Mr.S.Kanmani Annamalai,
Additional Government Pleader (Taxes)

सत्यमेव जयते

ORDER

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The petitioner is a registered dealer under the Tamil Nadu Value Added Tax Act and the Central Sales Tax Act. It has regsitered offices in Rajasthan and Maharashtra. In the course of its business, the petitioner entered into a “Power Purchase Agreement”on 16.06.2014 with M/s.KG Fabriks Limited, Erode. While so, on the ground that the petitioner failed to produce relevant documents, the respondent construed the purchase turn over as if the sale made by him and issued a notice dated 27.02.2015 followed by another notice dated 09.04.2015 proposing to asses the purchase value and to levy penalty. Accordingly, the petitioner appeared in

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person on 10.04.2015 and filed a reply on 13.04.2015. Despite the objections, the responded proceeded to confirm the earlier proposal and passed the impugned order. It is this order, now under challenge in this writ petition.

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

3. For the assessment year 2014-15 with regard to purchase turnover related issue, the respondent issued a notice dated 27.02.2015 followed by notice dated 09.04.2015. For the notice dated 27.02.2015, which was received on 17.03.2014, the petitioner submitted a detailed reply on 20.03.2015. Thereafter, on 09.04.2015, the second notice came to be issued, for which also the petitioner submitted a detailed reply on 13.04.2015 which was supported by acknowledgement given by the officials of the respondent on 13.04.2015.

4. While so, strangely impugned order of assessment came to be passed on 21.04.2015 stating that the dealer did not file any objection to the notice issued by the authority. Contrarily, para 4 of the impugned is nothing but the reference related to para 6 of the impugned order. Thus, this court finds no other way except to set aside the impugned order on the ground that the same has been passed without following the principles of natural justice and remit the matter back to the authority for fresh consideration with certain conditions.

5. In the result, this writ petition is allowed. The impugned order is set aside and the matter is remitted back to the respondent for fresh consideration. The petitioner is permitted to produce all the relevant documents as well as to submit additional objections, if any, within a period of two weeks from the date of receipt of a copy of this order. On filing such documents and objections, the respondent shall consider the matter afresh after affording due opportunity to the petitioner including personal hearing and then pass appropriate orders on the same on merits and in accordance with law within a period of six weeks thereafter. No costs. Consequently, connected MP is closed.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kmk

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To

1.The Assistant Commissioner (CT),
Broadway Assessment Circle,
Chennai.

+1cc to Mr.C.Rekha Kumar, Advocate, S.R.No.42259
+1cc to the Special Government Pleader(Taxes), S.R.No.42355

W.P.No.24011 of 2015

GGK(CO)
CA(22/09/2015)

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