IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.24320 of 2015
And
M.P.No.1 of 2015

M/s.Cavin Kare Pvt. Ltd.,
Registered under the provisions
Of Indian Companies Act 1956
Represented by its Commercial Manager
Mr.K.Sudhakar ... Petitioner

Vs.

The Assistant Commissioner (CT) (FAC)
Cuddalore Taluk
Cuddalore. ... Respondent

Prayer:
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the files of the Respondent herein in TIN No.33784401571/2010-11 and quash the impugned proceeding dated 06.07.2015 of the Respondent, wherein the respondent has completed an assessment, without giving an opportunity of being heard u/s 22(2) of Tamil Nadu Value Added Tax Act, 2006.

For Petitioner : Mr.R.Sivaraman

For Respondent : Mr.Kanmani Annamalai
Additional Government Pleader (T)

O R D E R

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

2.The petitioner has filed this writ petition seeking issuance of Certiorarified Mandamus calling for the records on the files of the Respondent herein in TIN No.33784401571/2010-11 and quash the impugned proceeding dated 06.07.2015 of the Respondent, wherein the respondent has completed the assessment, without giving an opportunity of being heard u/s 22(2) of Tamil Nadu Value Added Tax Act, 2006.

3.The petitioner is a company engaged in the business of food products and dairy products and also engaged in trading of cosmetics and a registered dealer on the files of the respondent. The petitioner would further state that inspection was conducted by the Enforcement Wing in the petitioner's business premises and certain defects and omissions were found by the Enforcement Wing and based on the findings of the Enforcement Wing, a pre-revision notice came to be passed by the respondent on 06.04.2015 for which, according to the petitioner, a reply dated 14.05.2015 had been sent and it was received by the respondent, who, without considering the said reply of the petitioner has passed the impugned order and hence, the petitioner is before this Court.

4.The learned counsel appearing for the petitioner would submit that for the pre-revision notice dated 06.04.2015, the petitioner filed a reply dated 14.05.2015 and the said reply was also received by the Assessing Authority, but without considering the same the impugned order came to be passed thereby violated the principles of natural justice and prays for appropriate orders.

5.Since the petitioner did not enclose any copy of acknowledgement for the reply sent, during the last hearing, the learned Additional Government Pleader was directed to get instructions as to whether such reply was filed, since the impugned order specifies that no reply was filed for the notice, dated:06.04.2015.

6.After verification, the learned Additional Government Pleader fairly submitted that the petitioner has filed the reply as claimed and the same is very much available in the files and inadvertently, while passing orders, the reply was not considered.

7.Hence, this Court finds it appropriate to set aside the impugned order for violating the principles of natural justice. Accordingly, the impugned order is set aside and the matter is remitted back to the respondent for passing fresh orders. The petitioner is permitted to file additional reply, if any, within a period of two weeks from the date of receipt of a copy of this order and on such filing, necessary orders on merits and in accordance with law be passed after affording opportunity of hearing to the petitioner, within a period of four weeks thereafter.

8.This writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (CT) (FAC)
Cuddalore Taluk
Cuddalore.

+1cc to Mr.R.Sivaraman, Advocate, S.R.No.46694
+1cc to the Special Government Pleader(Taxes), S.R.No.46816

W.P.No.24320 of 2015
And
M.P.No.1 of 2015

GJ(CO)
CA(15/09/2015)