IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.27423 of 2015
and M.P.No.1 of 2015

M/s. Shafeeq & Co
rep. by its Partner P. Shafeeq Ahmed
1056/B-4 Konamedu
Vaniyambadi Vellore District. [Petitioner]

Vs

The Commercial Tax Officer (FAC)
Vaniyambadi, Vellore District.
[Respondent]

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari calling for the records of the Respondent in his proceedings in TIN 33404641910/08-09 A1-211/13 (AA0-10)dated 03.07.2015 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan
For Respondent : Mr.V.Haribabu, AGP

O R D E R

Heard the learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader (Taxes) for the respondent and with their consent, the main writ petition is taken up for disposal.

2. This writ petition is filed challenging the order of the respondent issued in TIN 33404641910/08-09 A1-211/13 (AA0-10) dated 03.07.2015.

3. According to the learned counsel for the petitioner, the petitioner, being a registered dealer under the TNVAT Act and CST Act and an assessee on the file of the respondent, is a dealer in Finished Leathers. It is the contention of the learned counsel for the petitioner that for the assessment year 2008-09, on 22.07.2015, the petitioner has received the assessment order dated 03.07.2015, wherein it is stated that on verification, it was found that they

have made purchases from unregistered dealers, which are liable to tax under Section 12 of the TNVAT Act and therefore, it was proposed to levy tax by issuing notice dated 12.03.2015,for which, the petitioner has not filed any objections and hence the proposal was confirmed. However, according to him, no notice whatsoever has been served on the petitioner as claimed in the impugned order. Hence, the learned counsel for the petitioner has sought for quashing of the impugned order dated 03.07.2015.

4. It is brought to the notice of this Court that the assessment order was served in time, but, no pre-assessment notice was served on the petitioner.

5. The learned Additional Government Pleader (Taxes) fairly submitted that the respondent may be directed to issue fresh notice and on receipt of the same, the petitioner may be directed to file their objections and on receipt of the same, the respondent may be directed to consider the objections and pass appropriate orders within a time frame.

6. To give a quietus to this issue and in view of the submission made by the learned Additional Government Pleader (Taxes), this Court is of the view that the impugned order passed by the respondent dated 03.07.2015 is liable to be set aside and the matter has to be remitted back to the respondent for passing fresh orders, after issuing fresh notice calling for objections from the petitioner.

7. In view of the same, by quashing the impugned order dated 03.07.2015, the matter is remitted back to the respondent for passing orders afresh. The respondent is directed to issue fresh notice within a period of two weeks from the date of receipt of a copy of this order and on receipt of such notice, the petitioner is directed to file their necessary objections along with documentary evidences and on receipt of such objections, the respondent is directed to consider the same and pass appropriate orders, on merits and in accordance with law, within a period of four weeks thereafter, after providing due opportunity to the petitioner.

The writ petition is disposed of with the above directions. No costs. Connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CSIV)
dt:10/09/2015

True Copy

Sub-Assistant Registrar

To

The Commercial Tax Officer (FAC)
Vaniyambadi, Vellore District.

+1 cc to Mr.S.Ramanathan, Advocate vide sr.46983
+1 cc to Special Government Pleader (Taxes)
vide sr.47235

W.P.No.27423 of 2015

aa10/09/2015