IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2015

CORAM:

THE HON'BLE MR. JUSTICE R.MAHADEVAN

W.P.No.29989 of 2015 of 2015
and M.P.No.1 of 2015

Selvam Hardwares and
Electricals Rep. by its Proprietor P.
Karthikeyan No.2/203 Kamraj Avenue
Ottiyampakkam Main Road Sithalapakkam
Chennai - 600 126 .. Petitioner

Vs

Assistant Commissioner (CT)
Medavakkam Assessment Circle No.26 - D
BHEL Nagar Medavakkam Chennai - 600 100 .. Respondent

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certirorari to call for the impugned proceedings of the Respondent passed in TIN/33960987169/2011-12 dated 04.03.2015 and quash the same.

For petitioner : Mr.N.Murali
For respondent : Mr.V.Haribabu, AGP

O R D E R

This writ petition has been filed to call for the impugned proceedings of the Respondent passed in TIN/33960987169/2011-12 dated 04.03.2015 and quash the same.

2.1. The case of the petitioner is that the petitioner company is a registered dealer under the TNVAT Act before the respondent and was paying tax at the rate of 0.5% through Form-K and promptly discharging its liability. The petitioner changed composition of tax option system to regular system of tax during the current financial year from June 2015. While so on 11.12.2014, the respondent issued a notice by alleging that on verification of the data available in the department website revealed that the petitioner effected purchases to the tune of Rs.74,76,553/- and by comparing the same with monthly return, the sales turnover reported was less and thereby estimated the sales turnover of alleged unaccounted purchase at Rs.82,24,208/- after adding gross profit at 10%.

2.2. The petitioner was shocked to receive the impugned order dated 04.03.2015 passed by the respondent in TIN/33966987169/ 2011-12 as he had entrusted the matter to a local consultant and came to know that the consultant did not finalize the issue with the respondent. According to the petitioner, the respondent either in the notice dated 11.12.2014 or in the impugned order dated 04.03.2015 did not refer to basic details in respect of proposal to assess the turnover of Rs.82,24,208/-, as to what kind of data had been referred in the department website, the name of the seller who had sold the goods and the sale invoice details and the TIN number of the seller etc., to make the assessment on the part of the petitioner. Further, according to the petitioner, it is the duty of the respondent to incorporate the above details in the notice dated 11.12.2014 followed by the impugned order dated 04.03.2015. Hence, the petitioner is before this Court with the above mentioned prayer.

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

4. The issue involved in this writ petition related to various disputed facts. As against the impugned order, there is an effective alternative remedy available under the provisions of TNVAT Act. Hence, this writ petition is disposed of by granting two weeks' time to the petitioner to file appeal before the appellate authority. On such filing, the appellate authority shall entertain the same and pass appropriate orders, on merits and in accordance with law, without raising the issue of limitation. No costs. Connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(J)
dt:26/10/2015

True Copy

Sub-Assistant Registrar

Kua

To

Assistant Commissioner (CT)
Medavakkam Assessment Circle No.26 - D
BHEL Nagar Medavakkam Chennai - 600 100

+1 cc to M/S.N.Murali Advocate sr.56055
+1 cc to Special Government Pleader Taxes sr.56004

W.P.No.29989 of 2015 of 2015

Rsj(co)
aa27/10/2015