IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2015

CORAM:

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.33140 of 2015

and

M.P.No.1 of 2015

M/s.Florind Uppers Pvt. Limited,
III Floor, Maskur, No.1, Krishnamma Road,
Nungambakkam, Chennai-34. .. Petitioner

Vs

The Assistant Commissioner (CT),
Nungambakkam Assessment Circle. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of certiorarified mandamus to call for the records of the respondent in order dated 31.08.2015 in TIN/3317046 1524/2009-10 and quash the same and direct the respondent to do the assessment by giving the petitioner adequate opportunity to discharge its burden of proof.

For Petitioner .. Mr.Adithya Reddy

For Respondent .. Mr.S.Kanmani Annamalai,
Addl. Govt. Pleader

ORDER

Challenging the order of the respondent dated 31.08.2015 and for a direction to the respondent to do the assessment, the petitioner has filed the present writ petition.

2.The petitioner is a registered dealer in Tamil Nadu and doing job works for other show manufacturers. The Enforcement Wing Officers have conducted audit in the business premises of the petitioner and they pointed out purchase suppression and difference in purchase turnover between the balance sheet and return. The grievance of the petitioner is that the Commercial Tax Officer (Enforcement), without further verification of accounts, formulated a proposal and sent the same to the respondent for implementation. Based on the audit report, the respondent issued a notice dated 27.02.2015 and proposed to revise the petitioner's deemed assessment for the year 2009-2010. By letter dated 22.04.2015, the petitioner admitted the alleged purchase suppression and paid a sum of Rs.49,041/-. The petitioner also appeared before the respondent for personal hearing on 26.08.2014 and without considering the explanation, the respondent passed the impugned order. Hence the present writ petition.

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

4.Learned counsel for the petitioner would submit that the respondent, without considering the objections of the petitioner, passed the impugned order, only on the basis of the audit report of the enforcement wing. He would further submit that though the petitioner appeared for personal hearing, the issue regarding agreements entered into between the petitioner and the executors were not produced, has been raised only in the impugned order. Learned counsel for the petitioner therefore prays to set aside the impugned order.

5.Since the issue relating to non-production of the agreements entered into between the petitioner and the executors was not raised earlier and it was pointed out only in the impugned order, learned counsel for the petitioner would submit that the agreement and other related documents are very much available and if an opportunity is granted, the petitioner will produce the same for the consideration of the authorities, for which, the learned Additional Government Pleader has no serious objection.

6.In view of the above, the impugned order is set aside and the matter is remitted back to the assessing authority for passing appropriate orders. The petitioner is permitted to produce documentary evidence including the agreements related to works contract within a period of two weeks from the date of receipt of a copy of this order. On such production of the same, the respondent is directed to pass orders on merits and in accordance with law after affording due opportunity to the petitioner within a period of six weeks thereafter.

7.In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

sd/
ASSISTANT REGISTRAR(CS_III)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

mmi

To

The Assistant Commissioner (CT),
Nungambakkam Assessment Circle.

+1 CC to MR. Adithya Reddy Advocate. SR.NO. 57081
+1 CC to Govt.Pleader. SR.NO. 57627

W.P.No.33140 of 2015

CO-(CS-III)
JD 30/10/2015