IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.34142 and 34143 of 2015
and
M.P.Nos.1,2, 1 and 2 of 2015

M/s.R.G. Power Consortium rep. by its Partner J.Giri, now known as M/s.Badhri Electricals rep. by its Partner J.Giri .. Petitioner in both the W.Ps

Vs

The Assistant Commissioner (CT), Vadapalani II Assessment Circle, Now MMDA Assessment Circle, Chennai - 6. .. Respondent in both the W.Ps

Petitions filed under Article 226 of the Constitution of India to issue a Writ of certiorrified mandamus to call for the records of the respondent in TIN/33891482926/2009-10 and TIN/33891482926/2010-11 quash the impugned revised orders dated 03.10.2013 (certified copy served on the petitioner on 16.09.2015) and further direct the respondent to grant a reasonable opportunity to produce the records and file objections and thereafter pass orders in accordance with the provisions of the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner : Mr.V.Sundareswaran in both the W.Ps

For Respondent : Mr.S.Manoharan Sundaram, Addl. Govt. Pleader (T)

COMMON ORDER

Challenging the orders of the respondent dated 03.10.2013 and for a consequential direction to the respondent to grant a reasonable opportunity to the petitioner to produce the records and file objections, these writ petitions have been filed.

2.It is the case of the petitioner that it is a partnership concern, originally carrying on business in the works contract viz., fabrication, supply and erection of electrical panel under the name and style of M/s. R.G.Power Consortium at No.12/9, Munirathinam Street, Ayavoo Naidu Colony, Aminjikarai, Chennai - 29. On 27.06.2012, the enforcement wing officials conducted inspection and a statement was recorded, resulting in collection of tax and compounding fee. The partnership was reconstituted vide agreement dated 31.03.2013 and the petitioner changed the name of the company as M/s.Badhri Electricals and shifted the business to No.3, Munusamy Street, Kamaraj Nagar, Chromepet, Chennai. While so, the petitioner was served with the recovery notices dated 06.02.2015 to the present address, directing them to remit tax and penalty for the years 2007-08 to 2010-11 and CST for the year 2007-08. Pursuant to the said notice, the respondent issued attested photocopies of the assessment orders for the assessment years 2009-10 and 2010-11. The grievance of the petitioner is that without serving pre-assessment notices to the present address, the respondent served the impugned revised assessment orders dated 03.10.2013. Hence the present writ petitions.

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

4.Learned counsel for the petitioner submitted that the recovery notices came to be served on the petitioner in the present address and the pre-assessment notices relating to the assessment years 2009-10 and 2010-11 were served to the previous address of the petitioner, for which, admittedly, the petitioner has filed objections. Thereafter, after a period of two years, the alleged assessment orders came to be passed, without affording any opportunity of personal hearing to the petitioner.

5.The learned Additional Government Pleader, on instructions, fairly submitted that the pre-assessment notices were served to the previous address of the petitioner and the assessment orders were not served properly to the present address of the petitioner.

6. In view of the above, in order to give quietus to the issue, the impugned orders dated 03.10.2013 are set aside and the matters are remitted back to the assessing authority for passing fresh orders. Since the petitioner had already received notices and filed objections, the petitioner is permitted to file additional objections, if any, within a period of two weeks from the date of receipt of a copy of this order. On such filing of the additional objections, the assessing authority shall consider the same and pass necessary orders on merits and in

accordance with law, after affording due opportunity of hearing to the petitioner, within a further period of six weeks thereafter.

7.In the result, the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

sd/
ASSISTANT REGISTRAR(CCC)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

mmi

To

The Assistant Commissioner (CT),
Vadapalani II Assessment Circle,
Now MMDA Assessment Circle,
Chennai - 6.

+1 CC to MR.V.Sundareswaran Advocate. SR.NO. 59878
+1 CC to Special Govt.Pleader. SR.NO. 59910

W.P.Nos.34142 and 34143 of 2015

CO-SVI
JD 20/11/2015