IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.37836 of 2015

M/s.Javeed Ahamed & Co.,
represented by its Proprietor
S.C.Javeed Ahmed,
1/166 Cutchery Road,
Valayampet, Vaniyambadi,
Vellore District ... Petitioner

Vs.

The Assistant Commissioner (CT)
Vaniyambadi Assessment Circle,
Vaniyambadi, Vellore District ... Respondent

Prayer : Writ petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorari to call for the records of the respondent in his proceedings in TIN 33384640654/08-09 dated 16.10.2015 and quash the same.

For Petitioner : Mr.S. Ramanathan

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

ORDER

This writ petition has been filed by the petitioner challenging the impugned proceedings of the respondent made in TIN 33384640654/08-09 on 16.10.2015 for the assessment year 2008-2009 and quash the same.

2. This petitioner is a registered dealer under Tamilnadu Value Added Tax Act, 2006 as well as CST Act and he is an asesee on the file of the respondent.

3. The specific case of the petitioner is that for the assessment year 2008-09, the assessment was completed under section 22(2) of the Tamilnadu Value Added Tax Act, 2006. Thereafter, a revised notice was issued by the respondent on 23.3.2015 in TIN 33384640654/08-09 claiming that the purchases were effected from unregistered dealers which are taxable under section 12 of Tamilnadu Value Added Tax Act, 2006. Since those purchases have not been brought

on tax net, the authority proposed to pass an order of assessment by the said notice. The petitioner filed a reply dated 15.4.2015 stating that those purchases effected were only from registered dealers and not from unregistered as stated by the respondent in their notice. It was also pointed out by the petitioner that those purchases had already been disclosed in the returns along with the list of purchases containing the dealer's name,TIN No.,invoice number etc.

4. Without considering the same, the assessing authority, the respondent herein had passed the impugned order of assessment for the year 2008-2009, against which, the petitioner is before this Court.

5. Learned counsel for the petitioner submitted that without considering the detailed objections filed along with the documents, the respondent simply confirmed the proposal and hence for non consideration of the reply filed by the petitioner, the assessment order passed by the respondent is vitiated. Hence the learned counsel sought to quash the assessment order.

6. Mr.S.Kanmani Annamalai, learned counsel for the respondent fairly submitted that there is no such reference for consideration of the reply submitted by the petitioner, hence necessary directions be issued to the respondent for passing appropriate orders.

1. I have heard the submissions of Mr.S.Ramanathan, learned counsel for petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (T) appearing for the respondent.

8. It is apparent that the respondent has not considered the reply filed by the petitioner on 15.4.2015 along with materials. Hence this court is of the view that the assessment order passed by the respondent cannot be sustained and accordingly, the same is set aside and the matter is remitted back to the assessing authority/respondent for considering the reply filed by the petitioner along with the materials and the respondent shall pass orders after affording due opportunity to the petitioner on merits and in accordance with law. Such exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

This Writ Petition is disposed of in the above terms. No costs. Consequently, the connected M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

msr

To

The Assistant Commissioner (CT)
Vaniyambadi Assessment Circle,
Vaniyambadi, Vellore District.

+1cc to M/s. S. Ramanathan, Advocate, S.R.No.64591

+1cc to the Special Government Pleader, S.R.No.64875

PPA(CO)
EU 05/1/2015) W.P.No.37836 of 2015