IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.4003 of 2015
and
M.P.No.1 of 2015

M/s.Indus Teqsite Private Limited,
Represented by its Manager-Finance V.Venkata Subramanian,
No.H-9, Fourth Main Road, SIPCOT IT Park,
Siruseri,
Chennai-603 103. .. Petitioner

Vs

The Commercial Tax Officer,
Kodambakkam Assessment Circle,
Chennai-600 006. .. Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the Assessment Order in CST/795931/2013-14 dated 19.11.2014 passed by the respondent, quash the same as arbitrary and illegal and further direct the respondent to lift the attachment of the petitioner's account.

For Petitioner : Mr. Joseph Prabkar
For Respondent : Mr.ANR. Jayapratap
Addl. Govt. Pleader (T)

O R D E R

The petitioner has come forward with this writ petition challenging the order of the respondent dated 19.11.2014.

2.The learned counsel for the petitioner contended that before passing the impugned order, the respondent has not given any opportunity of personal hearing to the petitioner to put forth his contentions. However, on going through the impugned order, it appears that an opportunity was not given to the petitioner. The impugned order was passed on 19.11.2014 and the same was received by the petitioner on 23.11.2014. The petitioner, against the impugned order, instead of preferring an appeal before the appellate authority questioning the same on the ground of violation of principles of natural justice, he filed a petition under Section 84 of the Tamil Nadu Value Added Tax, 2006 for rectification of the impugned order since according to the petitioner, the respondent has committed an error on the face of the record and the same is pending. The petitioner has also made a representation on 15.12.2014. On going through the impugned order, I do not find any scope to interfere with the same.

3.The learned counsel for the respondent contended that when an application under Section 84 has been filed and that time to present the petition for condonation of delay has already expired and that the petition under Section 84 is pending for rectification of the impugned order dated 19.11.2014, this Court has no ex-ordinary jurisdiction under Article 226 of the Constitution of India to entertain the writ petition.

4.Heard both sides.

5. When admittedly, the petitioner has chosen to file the application under Section 84 of the Act for rectification of the impugned order and if the impugned order is set aside on the ground raised by the petitioner, the petition filed under Section 84 would become infructuous. From the records, I find that a detailed order has been passed by the respondent and it is not required any interference by this Court. Even though learned counsel for the petitioner relying an order passed by this Court dated 05.02.2015 in W.P.No.2769 to 2775 of 2015, but the facts involved therein, are not applicable to the present case and this Court is not inclined to follow the above decision.

6. However, considering the fact that the the application under Section 84 of the Act is pending and also the representation made by the petitioner dated 15.12.2014 with the respondent, this Court is directing the authority concerned to dispose of the representation dated 15.12.2014 together with application dated 10.02.2015, within a period of one month from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner.

7.With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer,
Kodambakkam Assessment Circle,
Chennai-600 006.

+ 1 cc to Mr.Joseph Prabakar, Advocate Sr.8856

+ 1 cc to Special Government pLeader Sr.8745

W.P.No.4003 of 2015
and
M.P.No.1 of 2015

SV(CO)
Eu 2.03.15