IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.6139 of 2015
And
M.P.No.1 of 2015

M/s. Siva Traders [Petitioner]
Rep. by its Proprietor Mr. K.Sambandam
Iron Steel and Soft Drinks
No.20 Santharam Road Kuttalam-609801
Nagapattinam District.

Vs

The Assistant Commissioner(CT)
Mayiladuthurai I Assessment Circle
Mayuranathan East Street Mayiladuthurai
Nagapattinam District. [Respondent]

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records of the Respondent in TIN 33204042602 (wrongly typed as TIN 33204042608)/2013-2014 dated 05.02.2015 and quash the same as illegal arbitrary and against the principles of natural justice.

For Petitioner : Mr.K.Sondararajan

For Respondent : Mr.Cibi Vishnu, AGP (T)

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes), who accepts notice for the respondent. With the consent of the learned counsel for either side, the main writ petition itself is taken up for hearing at the admission stage itself.

2. The petitioner has come forward with this writ petition challenging the order dated 05.02.2015.

3. The case of the petitioner is that they have filed monthly returns and the same has not been considered by the authority while passing the impugned order dated 05.02.2015.

4. In support of the above contention, the learned counsel for the petitioner drew the attention of this Court to the following paragraph in the impugned order dated 05.02.2015:

" The purchase details were disclosed by the dealer were taken from the computer. If the details seems to be incorrect, the dealer is responsible for furnishing the incorrect details. This end dealer's purchase details and other end dealer's sale details were taken from computer. Therefore, department is not responsible for such a incorrect details furnished by the purchaser and sellers".

The learned Additional Government Pleader has not disputed the above said contention of the learned counsel for the petitioner.

5. Admittedly, the petitioner has produced the monthly returns, as could be seen from his representation dated 05.02.2015. On the very same day, the impugned order has been passed. In fact, the authority has referred to the letter dated 05.02.2015 of the petitioner in the order. Since the monthly returns have got to be taken into account by the authority before passing the impugned order, the impugned order is liable to be set aside.

6. In view of the above, the impugned order dated 05.02.2015 is set aside and the matter is remitted back to the authority for passing fresh orders on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner. It is made clear that the petitioner is directed to appear before the respondent on the date to be fixed by the respondent and after hearing the petitioner, orders shall be passed by the respondent within a period of four weeks from the date of personal hearing of the petitioner. In case the petitioner fails to appear before the respondent on the date to be fixed by the respondent, the respondent is entitled to pass appropriate orders on merits and in accordance with law, within the stipulated time.

The writ petition is disposed of with the above direction. No costs. Connected miscellaneous petition is closed.

rg

s/d-
Assistant Registrar(R)
Dt:18/3/2015

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner(CT)
Mayiladuthurai I Assessment Circle
Mayuranathan East Street Mayiladuthurai
Nagapattinam District.

+ 1 cc to Mr.K.Soundararajan, Advocate SR 12708

+ 1 cc to Special Govt.Pleader (Taxes) SR 13062

ku(co)
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