IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.6196 of 2015
And
M.P.No.1 of 2015

Tvl.Sree lakshmi Narayana Agencies [Petitioner]
Rep by its Partner
No.15 2nd Street kamaraj Colony
Kodambakkam Chennai 24

Vs

The Assistant Commissioner (CT)
Saligramam Assessment Circle Chennai [Respondent]

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus calling for the records of the respondent in TIN 33971423615/2011-12 dt 28.2.2014 and quash the same as illegal unconstitutional and direct the respondent to consider the returns and Annexure II filed by the petitioner and pass orders in accordance with law after verifying the genuineness of the said documents.

For Petitioner : Mr.A.Ravichandran

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

O R D E R

Heard Mr.R.Ravichandran, learned counsel for the petitioner and Mr.Cibi Vishnu, 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 28.2.2014 and to direct the respondent to consider the returns and Annexure II filed by them and pass orders in accordance with law, after verifying the genuineness of the said documents.

3. It is the case of the petitioner that the respondent issued notice dated 19.02.2013, proposing the total taxable turnover for the

year 2011-2012 under the Tamil Nadu Value Added Tax by reversing the ineligible input tax credit of Rs.1,52,043/-, which is liable to be paid by the petitioner. For the said notice, the petitioner sent a detailed reply on 05.03.2013, by enclosing necessary documents, which was duly acknowledged by the respondent on the very same day. However, the respondent passed the impugned order dated 28.02.2014, confirming the proposals as stated in the notice dated 19.02.2013, by holding that the petitioner had not filed any objections, by also levying penalty. Hence, the petitioner has come forward with this writ petition.

4. The learned counsel for the petitioner contended that without considering the objections filed by the petitioner and without affording an opportunity of personal hearing to him, the impugned order has been passed in violation of principles of natural justice.

5. The learned Additional Government Pleader (Taxes) is unable to refute the contention raised by the learned counsel for the petitioner.

6. From a perusal of the impugned order it is clear that the objection filed by the petitioner has not been considered and further, an opportunity of personal hearing has not been given to the petitioner. In view of the above, the impugned order dated 28.02.2014 is set aside and the matter is remitted back to the authority for passing fresh orders after affording an opportunity of personal hearing to the petitioner.

7. The petitioner is directed to appear before the Authority concerned on 06.04.2015, on which date, he is entitled to make his verbal and written submissions, if any and also file documents in support of his contention. In case the petitioner fails to avail this opportunity on 06.04.2015, it is open to the Authority to pass orders on merits based on the available records, within a period of three weeks thereafter.

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)
Saligramam Assessment Circle Chennai

+ 1 cc to Mr.A.Ravichandran, Advocate SR 12768

+ 1 cc to Special Govt.Pleader (Taxes) SR 13058

ku(co)
prk20/3

W.P.6196 of 2015