IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.03.2015
CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8296 of 2015
and
M.P.No.1 of 2015

The Chennai Mobiles,
represented by its Partner
A.M.Samsuali
23-24, Rajaji Road,
Ramnagar,
Coimbatore - 641 009. ... Petitioner

vs.

The Assistant Commissioner (CT),
Ramnagar Assessment Circle,
Coimbatore - 641 018. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the respondent herein in his TIN:33891982185/2012-13 dated 17.02.2015, quashing the same.

For Petitioner : Mr.N.Inbarajan
For Respondent : Mr.Manoharan Sundaram,
Additional Government Pleader (T)
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O R D E R

The petitioner has come forward with this writ petition to quash the order of the respondent in his TIN:33891982185/2012-13 dated 17.02.2015.

2. Heard learned counsel for petitioner and learned Additional Government Pleader (Taxes) for respondent.

3. Petitioner is a registered dealer on the file of the respondent under the provisions of Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as 'Act 2006'). Petitioner is a dealer engaged in the business of buying and selling cellular phones and accessories. Petitioner availed Input Tax Credit on the taxes paid by them on the purchases effects. They have also filed Form WW (Audit Report) as provided under Section 63-A of the Act 2006. The respondent initiated proceedings under Section 27 of the Act 2006 on verification of particulars furnished in Form WW. The difference between the purchase value as reflected in the returns and trading account were treated as excess purchase value and the respondent

disallowed the Input Tax Credit invoking section 19(13) of the Act 2006. The respondent, without conducting enquiry and without affording an opportunity of personal hearing, passed the impugned order dated 17.02.2015, confirming the demand of tax and penalty on the reasoning that the petitioner has failed to reply to the notice issued by the respondent.

4. Learned counsel for petitioner submitted that the petitioner has agreed to pay 10% of the tax amount as determined in the impugned order and the petitioner would cooperate to enable the assessing officer to complete the proceedings afresh.

5. Taking note of the facts and circumstances of the case, which being an exceptional one, this Court directs the respondent to accept 10% of the amount as determined in the impugned order, which the petitioner has agreed to pay the same, which can be adjusted from the refund and and give one more opportunity to the petitioner to put forth their objections and thereafter to pass appropriate orders on merits and in accordance with law.

6. The petitioner is directed to appear on 30.04.2015 before the authority, on which date, the petitioner is entitled to make their verbal and written submissions, if any. In case the petitioner fails to avail this opportunity on 30.04.2015, the authority is empowered to pass orders afresh on merits and in accordance with law based on the available records. In case, an adverse order is passed on the failure of the petitioner to avail the opportunity, the petitioner undertakes that they will approach the appellate authority challenging that order by complying with pre-deposit and shall not seek the indulgence of this Court on this score. The said submission of the learned counsel for the petitioner is recorded.

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

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To
The Assistant Commissioner (CT),
Ramnagar Assessment Circle,
Coimbatore - 641 018.
+1 cc to Spl.Government Pleader,SR.16531

+1 cc to Mr.N.Inbarajan, Advocate,SR.16305.
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