IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7301 of 2015
and
M.P.No.1 of 2015

Tvl Sun Hardwares and Paints,
rep. by its Proprietor
M.K.Syed Abdul Rahman ...Petitioner

Vs.

The Deputy Commercial Tax Officer,
Panruti (Town) Assessment Circle,
70, Kumbakonam Road,
Panruti-632 401. ...Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records in respect of the impugned Assessment Order TIN No.33324481364/2013-14 dated 14.11.2014 of the respondent under the Tamil Nadu Value Added Tax Act, 2006 and to quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.Manoharan Sundaram
Additional Government Pleader (T)

O R D E R

With the consent on either side the Writ Petition itself is taken up for final disposal at the admission stage.

2.The petitioner has come forward with the aforesaid Writ Petition challenging the impugned assessment Order TIN No.33324481364/2013-14 dated 14.11.2014 on the ground that no opportunity of personal hearing was granted to the petitioner.

3.According to the petitioner he is engaged in the business of hardwares and paints and a registered dealer under the Tamil Nadu Value Added Tax Act, 2006.

4.It is an admitted fact that the petitioner has filed the monthly returns in Form I for the year 2013-14 on 11.09.2014, which has been acknowledged by the concerned officer and the same has been reflected in the impugned order. However, without discussing or looking into all the aspects mentioned in the Form I, it has been stated by the respondent that the dealer is not eligible to avail the input tax credit. Since the documents are furnished before the authority and that genuine reason has been given by the petitioner, the order passed by the respondent prior to the receipt of the monthly return in Form I, cannot be said to be a justified one in rejecting the claim of the petitioner on the ground that the dealer has filed the monthly return belatedly.

5.Learned counsel for the petitioner prays to quash the impugned order on the ground that no opportunity has been given to the petitioner. He would also submit that the petitioner is willing to pay 10% of the tax amount and he may be given opportunity to put forth his case.

6.Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the documents available on record.

7.Since the order passed by the authority cannot be said to be a cryptic one and as the petitioner did not avail the opportunity to put forth his submissions and the petitioner states that he has got all the necessary documents with him and willing to approach the authority concerned, I set aside the impugned order and direct the respondent to give opportunity to the petitioner, who shall appear before the respondent on 04.05.2015.

8.The petitioner shall deposit 10% of the tax amount, as agreed by the petitioner before the authority concerned on or before 30.04.2015 and the petitioner shall appear for personal hearing on 04.05.2015.

9.In the result, the Writ Petition is allowed. Consequently connected miscellaneous petition is closed. No costs.

10. In case the petitioner fails to pay the 10% of the amount, as agreed by the petitioner within the said period, the original order impugned in the Writ petition shall stand restored

and the respondent is empowered to initiate appropriate action in accordance with law.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vga

To

The Deputy Commercial Tax Officer,
Panruti (Town) Assessment Circle,
70, Kumbakonam Road,
Panruti-632 401.

1 CC to Mr.S.P. Asokan, Advocate SR.No. 14963

1 CC to the Government Pleader, SR.No. 15058

W.P. No.7301 of 2015
and M.P.No.1 of 2015

VSN (CO)
PSI (24.03.2015)