IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7519 of 2015
and
M.P.No.1 of 2015

Aravind Ceramics
rep. by its Managing Partner ...Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai.

2.The Assistant Commissioner,
Commercial Taxes,
Iyappanthangal Assessment Circle,
Chennai-600 089. ...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records from the second respondent in connection with the impugned proceedings bearing ref.No.TIN/33271381999/2012-2013 dated 14.01.2015 and the consequential Notice of Assessment and demand under Form O dated 14.01.2015 and Notice of penalty under Form RR dated 14.01.2015 and to quash the same.

For Petitioner : Mr.V.Prakash, Senior counsel for
Mr.K.Krishnamoorthy

For Respondents : Mr.Kanmani Annamalai
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 dated 14.01.2015 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 Tiles and a registered dealer under Tamilnadu Value Added Tax Act, 2006.

4.Learned senior counsel for the petitioner submitted that the petitioner imported goods during the year 2012-2013 and the same has been properly shown in the returns filed through Electronic e-filing system for the year 2012-2013. He would further contend that the second respondent without going through the returns, served a show cause notice dated 10.07.2014, as if the imported goods were not communicated in the returns filed for the relevant period. The petitioner replied on 14.07.2014 stating that all the purchase of imported goods were properly accounted and was shown in the returns filed for the relevant period and also sought for personal hearing. The receipt of the same was acknowledged by the second respondent. However, the second respondent passed the impugned order without referring the petitioner's objection dated 14.07.2014 and opportunity of personal hearing was not 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.

5.Heard the learned senior counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the documents available on record.

6.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 respondents to give opportunity to the petitioner, who shall appear before the respondent on 20.04.2015.

7.It is open to the petitioner to make his objection on or before 15.04.2015 and shall deposit 10% of the tax amount, as agreed by the petitioner before the authority concerned.

8.Accordingly, the Writ Petition is allowed. Consequently connected miscellaneous petition is closed. No costs.

9.In case the petitioner fails to pay the 10% of the tax amount, as agreed by the petitioner 15.04.2015, the original order impugned in the Writ petition shall stand restored and the respondents are empowered to initiate appropriate action in accordance with law.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

vga

To

1.The Commissioner of Commercial Taxes,
Ezhilagam, Chepauk, Chennai.

2.The Assistant Commissioner,
Commercial Taxes,
Iyappanthangal Assessment Circle,
Chennai-600 089.

1 CC to Mr.K.Krishnamoorthy, Advocate SR.No. 15096

1 CC to the Spl.Government Pleader, SR.No. 15704

W.P.No.7519 of 2015

AK (CO)
PSI (26.03.2015)