IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7616 of 2015
and
M.P.No.1 of 2015

Aravind Ceramics
Industries Limited
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/33291386547/2012-2013 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 manufacturing and a registered dealer under Tamil Nadu Value Added Tax Act, 2006.

4.Learned senior counsel for the petitioner submitted that the second respondent has issued a notice on 10.07.2014 assessing the goods so imported as if it was purchased for re-sale purpose. Therefore, the petitioner has submitted its objection letter on 14.07.2014 with a request to give personal hearing. The second respondent has passed the impugned order on 14.01.2015 assessing the goods imported for manufacture purpose in the taxable turnover and levied tax and also penalty, which is not sustainable. 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(CS-IV)

//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. 15095

1 CC to the Government Pleader, SR.No. 15969

W.P.No.7616 of 2015

NM (CO)
PSI (26.03.2015)