IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.03.2015

CORAM

THE HONOURABLE MR.JUSTICE M.DURAISWAMY.J

WP.No.7980 of 2015
and M.P.Nos.1 & 2 of 2015

M/s. Sri Andal Alagar Cement Pvt. Ltd.,
Represented by its Managing Director,
93C, Trichy Main Road,
Vazhudhareddy,
Villupuram. .. Petitioner

Versus

The Assistant Commissioner (CT),
Villupuram – I Assessment Circle,
Villupuram. .. Respondent

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the impugned proceedings of the respondent in TIN:33664683325/2013-2014 and quash the impugned proceedings dated 28.10.2014 as passed ignoring the monthly returns filed by the petitioner and also without granting reasonable opportunity to the petitioner including personal hearing as contemplated under proviso to section 22(4) of the Tamil Nadu Value Added Tax Act 2006.

For Petitioner : Mr.P.Rajkumar

For Respondent : Ms.Kanmani Annamalai
AGP (Tax)

O R D E R

Heard Mr.P.Rajkumar, learned counsel for the petitioner and Ms.Kanmani Annamalai, learned Additional Government Pleader (Tax) for the respondent.

2. The above Writ Petition has been filed by the petitioner to issue a Writ of Certiorari to call for the impugned proceedings of the respondent in TIN:33664683325/2013-2014, to quash the impugned proceedings dated 28.10.2014 as passed ignoring the monthly returns filed by the petitioner and also not granting reasonable opportunity to the petitioner including personal hearing as contemplated under proviso to Section 22(4) of the Tamil Nadu Value Added Tax Act 2006.

3. According to the petitioner, the respondent has committed error by passing the impugned order that the petitioner did not file monthly returns for the year 2013-2014 when the petitioner had filed the monthly returns declaring both local and inter-state purchases through e-filing and also obtained an acknowledgment from the Department's website. Further, the petitioner contended that the respondent has not given the mandatory requirement of Section 22(4) of the Tamil Nadu Value Added Tax Act by affording an opportunity of personal hearing to the petitioner.

4. On a perusal of the notice issued on 25.09.2014, it could be seen that the petitioner was asked to file their objections in writing with documentary evidence within 15 days and it was also made clear that failure to file objections and documentary evidence, the orders will be passed as proposed in the notice dated 25.09.2014. Admittedly, the petitioner has not given any objections before the respondent. Hence, the respondent by order dated 28.10.2014, confirmed the proposal with adopting the part of turnover by 5% and rest turnover at 14.5%. Challenging the said order, the petitioner has filed the above Writ Petition.

5. On a perusal of the impugned order dated 28.10.2014, it is clear that the petitioner was not given an opportunity of personal hearing while deciding the proceedings. Under Section 22(4) of Tamil Nadu Value Added Tax Act, affording an opportunity of personal hearing is mandatory, which was not followed by the respondent. Hence on this ground alone, the impugned order is liable to be set aside. Accordingly, the impugned order dated 28.10.2014 is set aside and the matter is remitted to the respondent for fresh consideration after affording an opportunity of personal hearing to the representative of the petitioner company. The petitioner is also at liberty to file his objections along with all the relevant documents before the respondent. The learned counsel for the petitioner submitted that the representative of the petitioner company will appear for personal hearing on 06.04.2015 before the respondent with all records and documents and file their objections. The respondent shall take into consideration the objections filed by the petitioner and also the documents produced by them and thereafter, pass orders on merits and in accordance with law.

With these observations, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Rj/ds

To

The Assistant Commissioner (CT),
Villupuram – I Assessment Circle,
Villupuram.

+ 1 cc to Mr.P. Rajkumar, Advocate SR.15976

+ 1 cc Government Pleader Sr.15973

TEJ(CO)
EU 24.03.2015

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