IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8319 of 2015
and
M.P.No.1 of 2015

Mahindra EPC Service Pvt. Limited,
represented by Manager-Indirect Tax,
Mr.Jagdish Namdeo Gawade,
No.17-18, Patullos Road,
Chennai - 600 002. ... Petitioner

vs.

Commercial Tax Officer,
Anna Salai Assessment Circle,
4th Floor, PAPJM Annexe Building,
No.621, Greams Road,
Chennai - 600 006. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the order in CST.32416/2013-14 dated 23.02.2015, passed by the respondent, quash the same as arbitrary and illegal and direct the respondent to issue Form 'C' declarations to the petitioner.

For Petitioner : Mr.Joseph Prabakar
For Respondent : Mr.Manoharan Sundaram
Additional Government Pleader (Taxes)

O R D E R

Heard Mr.Joseph Prabakar, learned counsel appearing for the petitioner and Mr.Manoharan Sundaram, learned Additional Government Pleader (Taxes) for the respondent. With the consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. Petitioner has filed this writ petition seeking to quash the order of the respondent in CST.32416/2013-14 dated 23.02.2015 and to direct the respondent to issue Form 'C' declarations to the petitioner.

3. Learned counsel for petitioner submits that it is not disputed that the petitioner has served with the notice dated 26.12.2014 and the petitioner has agreed to file the entire set of documents within a fortnight time and the same was also furnished. Thereafter, petitioner has also sent a letter dated 17.02.2015 to the respondent wherein they have stated that they have taken new projects in the State of Tamil Nadu and they are trying to get all the records, file the same and also trying to generate 'C' forms through website/on line. Thereafter, on 23.02.2015, the respondent issued a notice stating that there was difference in the interstate purchase value and the petitioner was asked to explain the reason for the variations. In that there is no specific date was given for the petitioner to appear and there is no direction for personal appearance. The notice was served on the petitioner only on 25.02.2015 and subsequently, they came to know that an order has been passed on 23.02.2015, which is impugned in this writ petition.

4. Learned Additional Government Pleader is unable to refute the contention.

5. This Court finds much force in the contention of the petitioner. Admittedly, in the impugned order, it is stated that the petitioner has not filed any objection to the proposal which is incorrect as could be seen from the narration of events. The earlier objection was not at all considered. That apart the petitioner was asked to give clarification by the respondent vide letter dated 23.02.2015 which was served on the petitioner on 25.02.2015. In the mean time, the impugned order has been passed on 23.02.2015. No opportunity of personal hearing was given to the petitioner, which is mandatory as per the provision of the Tamil Nadu Value Added Tax Act, 2006.

For the aforesaid reasons, this Writ Petition is allowed and the impugned order is set aside. The matter is remitted back to the respondent for fresh consideration and to pass orders on merits and in accordance with law after affording an opportunity of personal hearing to the petitioner. The petitioner shall appear before the respondent for personal hearing on 30.04.2015. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

The Commercial Tax Officer,
Anna Salai Assessment Circle,
4th Floor, PAPJM Annexe Building,
No.621, Greams Road,
Chennai - 600 006

+1cc to M/s.Joseph Prabakar, Advocate, S.R.No.16383
+1cc to the Special Government Pleader(Taxes), S.R.No.16530

W.P.Nos.8319 of 2015

RSK(CO)
CA(09/04/2015)