IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 25.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. Nos.8562 & 8563 of 2015

M/s.Guru Rajendra
represented by its proprietor
No.37, Reedy Raman street
Sowcarpet,
Chennai-600 079 ... Petitioner in both cases

Vs.

1.The Assistant Commissioner(CT)
Sowcarpet Assessment circle
No.48/39, Rajaji Salai II Floor
Chennai-600 001

2.The commercial Tax officer
Sowcarpet II Assessment circle
Chennai ... Respondent in all the cases

Prayer in both cases:- Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the impugned proceedings of the first respondent in TIN:33710240746/2009-10 and 2010-11 and to quash the order dated 27.01.2015 as passed contrary to the provisions of the TNVAT Act and also against the principles of natural justice and further direct the first respondent to provide for all the documents relating to the other dealers sales annexure (annexure II) to grant opportunity to the petitioner to cross examine them and also to file objections and thereafter pass orders in accordance with law.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.Kanmani Annamalai, AGP(T)

COMMON ORDER

Petitioner has come forward with the aforesaid prayer.

2. Heard the learned counsel for the petitioner and the learned Additional Government (Taxes) Pleader appearing for the respondents.

3. It is the case of the petitioner-company that they have received notices dated 30.05.2014 and 24.07.2014 from the 2nd respondent proposing to revise the assessment and to levy tax and penalty on the assessable turnover which was stated to be in wilful non-disclosure by the petitioner-dealer. It is further submitted by the petitioner that they have requested the authorities to furnish the copies of the documents, based on which the purchase details have been furnished. In the meantime, in view of re-organisation of the office, the entire papers have been entrusted with the Assistant Commissioner (CT), who ha passed the impugned order who has passed the impugned orders. According to the petitioner, the Assistant Commissioner (CT) has not heard them before passing the impugned orders. That apart, the petitioner has already requested for the documents to be supplied, which fact was not brought to the notice of the Assistant Commissioner (CT) by the Commercial Tax Officer. The said request was also absent in the impugned orders, dated 27.01.2015.

4. Without going into the merits of the matter, since the impugned orders have been passed by the 1st respondent without hearing the petitioner and admittedly, the opportunity of hearing was not given to the petitioner, the impugned orders are set aside. The matters are remitted back to the 1st respondent for considering afresh and passing orders on merits and in accordance with law, after affording an opportunity of hearing to the petitioner. The petitioner-company shall appear before the first respondent on 27.04.2015. In the meantime, it is open for the petitioner-company to make a representation requesting for copy of the documents required by them. All the available documents shall be furnished to the petitioner by the authority concerned within one week from the date of receipt of such a representation so as to enable the petitioner to file their objections, if any, on the date when they appear before the 1st respondent for personal hearing i.e on 27.04.2015. The petitioner shall file all their objections available to them. In case the petitioner fails to avail of the said opportunity on that date, it is open for the authority to pass orders on merits and in accordance with law, noting the absence of the petitioner.

5. With the above observations and directions, the writ petitions are disposed of. No costs. The miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Commissioner(CT)
Sowcarpet Assessment circle
No.48/39, Rajaji Salai II Floor
Chennai-600 001

2.The commercial Tax officer
Sowcarpet II Assessment circle
Chennai

+1cc to Mr.P.Raj Kumar, Advocate, S.R.No.16847
+1cc to the Special Government Pleader(Taxes), S.R.No.17051

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SK(CO)
CA(13/04/2015)