IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No. 9716 of 2015
and
M.P.No.1 of 2015

M/s. F.M.Sales & Marketing,
rep. by its Proprietor,
Ramesh Kumar M.Jain ... Petitioner

Vs

1.The Assistant Commissioner (CT),
Vallalar Nagar Assessment Circle,
116, Angappa Naicken Street,
Chennai 600 001. ... Respondent

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the files of the respondent in TIN 33291162380/2012-13 dt: 10.3.2015 and quash the same as being without jurisdiction and authority of law and contrary to the principle laid down by this Honourable Court in the judgment reported in (2006) 146 STC 642 (Madras Granites (P) Ltd. Vs. Commercial Tax Officer Arisipalayam Circle Salem and another).

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.Kanmani Annamalai AGP(T)

O R D E R

The petitioner has come forward with this writ petition seeking a direction to calling for the records on the files of the respondent in TIN 33291162380/2012-13 dt 10.3.2015 and quash the same as being without jurisdiction and authority of law and contrary to the principle laid down by this Honourable Court in the judgment reported in (2006) 146 STC 642 (Madras Granites (P) Ltd. Vs. Commercial Tax Officer Arisipalayam Circle Salem and another).

2. The facts leading to the filing of this writ petition is that the petitioner is a dealer and an assessee under the respondent herein. The petitioner had been earlier assessed by the respondent on 28.02.2014 for the assessment year 2012-2013. Since the said assessment was made without taking note of the reply filed by the petitioner, this Court vide order dated 03.04.2014 had set aside the impugned order therein and directed the respondent to pass afresh orders independently. Pursuant to the said directions, the petitioner was given an opportunity to appear before the authority.

3. Learned counsel for the petitioner contended though a specific direction was given by this court to do the exercise independently, the same has not been followed by the authorities and the entire order has been passed, based on the inspection report conducted by the Enforcement Wing. Hence, the petitioner has approached this Court again for passing orders afresh independently.

4. This Court considered the submissions made by the learned counsel on either side and perused the materials available on record.

5. In view of the above, the impugned order of the respondent dated 10.3.2015 is set aside and the matter is remitted back to the authority concerned to consider the case of the petitioner afresh and pass orders independently, without taking note of the proposal of the Enforcement Wing on merits and in accordance with law. The petitioner is directed to appear before the respondent with all relevant documents and on such appearance, the respondent is directed to consider the case of the petitioner afresh, and pass appropriate orders on merits and in accordance with law. If the petitioner fails to avail the opportunity, the respondent is directed to consider the case of the petitioner and pass appropriate orders based on the materials available on record.

6. The writ petition is disposed of with the above direction. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

smi

To

1. The Assistant Commissioner (CT),
   Vallalar Nagar Assessment Circle,
   116, Angappa Naicken Street,
   Chennai 600 001.

+ 1 cc Government Pleader Sr.18673

KJI(CO)
EU 24.04.2015

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