IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.9779 of 2015

M/s. Future Options Kard Services P. Ltd.,
rep. by its Accounts Manager,
...Petitioner

vs

The Assistant Commissioner,
KK Nagar Assessment Circle,
West Mambalam,
Chennai 600 033.
...Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in his proceedings in TIN No.33361421768/2015/A3, dated 27.03.2015 and quash the same and to direct the respondent to lift the bank attachment and redo the assessment for the year 2011-12.

For Petitioner : Mr.C.Bakthasiromoni

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

O R D E R

Heard Mr.C.Bakthasiromoni, learned counsel for petitioner and Mr.Kanmani Annamalai, learned Additional Government Pleader for respondent. By consent of either side, the Writ Petition is taken up for final disposal at the admission stage.

2. Petitioner seeks for issuance of a writ of certiorarified mandamus to call for the records of the respondent in his proceedings in TIN No.33361421768/2015/A3, dated 27.03.2015 and quash the same.

3. Learned counsel for the petitioner contended that the impugned order has been passed without mentioning for which assessment year, it has been passed. The learned counsel for the petitioner further submitted that the petitioner has agreed to pay 10% of the tax amount as determined by the respondent for the assessment year, without prejudice to the rights of the parties. The learned counsel for the petitioner also agreed that the

petitioner would appear before the respondent for personal hearing.

4. Learned Additional Government Pleader (T) has not refuted the contention of the learned counsel for the petitioner.

5. A perusal of the impugned order would reveal that the assessment year has been wrongly mentioned in the impugned order. In view of the above, without going into the merits of the matter, on the ground of violation of principles of natural justice, the impugned order of assessment is set aside and the matter is remitted back to the respondent for passing fresh orders. Hence, this Court is of the view that the respondent has to give an opportunity of being heard to the petitioner before passing orders afresh.

6. In view of the submission of the leanred counsel for the petitioner, the respondent is directed to accept 10% of the tax amount as determined in the impugned order for the assessment year, which the petitioner has agreed to pay the same. On receipt of the said amount, the respondent is directed to give an opportunity of personal hearing to the petitioner as provided under Section 22(4) of the Act and decide the matter afresh on merits and in accordance with law.

7. Hence, the petitioner is directed to make the submissions both oral and written and also produce all the documents, if any, in support of the case and on such appearance and on receipt of the documents, if any, filed by the petitioner, after considering the same and after affording an opportunity of personal hearing to the petitioner, the authority shall pass orders afresh, on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order.

8. In case the petitioner fails to avail the opportunity for any reason whatsoever, it is open to the respondent to pass appropriate orders on merits and in accordance with law with the available records.

9. It is made clear that on payment of 10% of the tax amount as determined by the respondent for the assessment year, the respondent is directed to lift the attachment.

This writ petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

smi

To

The Assistant Commissioner,
KK Nagar Assessment Circle,
West Mambalam,
Chennai 600 033.

1 cc to Spl.Government Pleader(T),Sr.No.18932
1 cc to Mr. C.Bakthasiromoni,Advocate, SR.No.184165

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kji(co)
pmk.23.4.2015