BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 11.08.2015
CORAM
THE HONOURABLE MR.JUSTICE R.SUBBIAH
W.P.(MD)No.14102 of 2015

M/S.G.K.SONS ENGINEERING PRIVATE LIMITED, REP. BY ITS AUTHORIZED SIGNATORY F.FELIX RAJ .. Petitioner

Vs.

THE ASSISTANT COMMISSIONER (CT), SRIRANGAM ASSESSMENT CIRCLE, TRICHY. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the Respondent in his impugned proceedings of the Respondent made in TIN No.33073460043/2013-14, dated 21.07.2015 and quash the same as illegal and contrary to the Provisions of the Act and direct the respondent to pass a assessment order afresh considering the reply dated 12.12.2014 after affording the opportunity of being heard.

For Petitioner : Mr.S.Karunakar

For Respondent : Mr.R.Karthikeyan
Additional Government Pleader

O R D E R

This writ petition has been filed for a Certiorarified Mandamus to call for the records on the file of the Respondent in his impugned proceedings of the Respondent made in TIN No.33073460043/2013-14, dated 21.07.2015 and quash the same as illegal and contrary to the Provisions of the Act and direct the respondent to pass a assessment order afresh considering the reply dated 12.12.2014 after affording the opportunity of being heard.

2.It is the case of the petitioner that he is a manufacturer of Boiler components and automobiles spares at Trichy unit and oil pumps at Chennai unit and he is an assessee on the file of the Assistant Commissioner (CT), Srirangam Assessment Circle, Trichy, the respondent herein holding TIN No.33073460043 under the Tamil Nadu Valude Added Tax Act and CST No.207581 under Central Sales Tax Act. On verification of the assessment filed, the respondent has issued a notice in TIN No.33073460043/2013-14 dated 14.11.2014 stating that the petitioners have not reported the sales effected by them for Rs.2,36,40,248/- in the annexure II of the monthly returns in Form I filed by them and also added an equal addition for suppression along with levey of penalty at 150%. Subsequently, the respondent has issued another notice in TIN No.33073460043, dated 24.11.2014 alleging that the petitioners have purchased materials for Rs.2,15,28,959/-. However, verification of annexure I of monthly returns filed in Form I did not contain the purchases and by adding 20% of gross profit had estimated the sales suppression as Rs.2,58,34,747/- along with equal addition and penalty.

3. On receipt of the said notices, the petitioner made a representation dated 12.12.2014 to the respondent, by properly explaining the reasons for variation and also attached the copies of invoices and other records to prove their stand effectively. The petitioner Firm has also requested the respondent for a personal hearing to present their case. But their shock and surprise, the respondent had confirmed his proposal vide his impugned order in TIN No.33073460043/2013-14, dated 21.07.2015 without verifying the records filed by the petitioner Firm and also by not affording a personal hearing. Hence, aggrieved over the same, the present writ petition has been filed.

4.The only legal submission made by the learned counsel for the petitioner is that the respondent has passed a non-speaking order without considering the copies of invoices and other records produced by the petitioner and therefore, the same is liable to be quashed.

5. Heard the learned counsel on either side and perused the order under challenge. As rightly contended by the learned counsel for the petitioner, the impugned order is a non-speaking order, as it is bereft of particulars and the same is liable to be set aside.

6.Accordingly, the impugned order is set aside and the matter is remitted back to the respondent for fresh consideration. The petitioner shall submit their objections, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the objections, the respondent shall consider the same and pass a detailed order, on merits and in accordance with law, within a period of three weeks thereafter. The writ petition is disposed of accordingly. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(AS)

/TRUE COPY/

Sub Assistant Registrar

To
THE ASSISTANT COMMISSIONER (CT),
SRIRANGAM ASSESSMENT CIRCLE, TRICHY.

+1cc to Mr.S.Karunakar,Advocate SR.No.45488

W.P.(MD)No.14102 of 2015
11.08.2015

rj2
PA/18.08.2015/2P/3C