BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :31.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P(MD).No.15582 of 2015
and
M.P(MD)No.1 of 2015

M/s.Haji Timbers Furniture,
Represented by its Proprietrix,
M.Syed Sulthan Beevi ...Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Commercial Tax Officer,
Shencottah(C) Assessment Circle,
Commerical Tax Office,
No.126, Main Road,
Shencottah,
Thirunelveli District - 627 809. ...Respondents

This Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings of the second respondent in TIN/33705702288/13-14, dated 18.06.2015 and quash the same and to consequently direct the second respondent to re-do the assessment afresh after giving adequate opportunity to the petitioner.

For petitioner : Mr.B.Rooban for Mr.R.V.Manikandan Associates

For Respondents : Mr.R.Karthikeyan, Additional Government Pleader

ORDER

The Writ Petition has been filed praying for a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings of the second respondent in TIN/33705702288/13-14, dated 18.06.2015 and quash the same and consequently direct the second respondent to re-do the assessment afresh after giving adequate opportunity to the petitioner.

2. Mr.R.Karthikeyan, learned Additional Government Pleader takes notice for the respondents.

3. By consent, this Writ Petition itself is taken up final disposal.

4. The petitioner is the Proprietrix of “Hani Timbers Furniture” and the said Concern is dealing in Timbers and Furniture and registered on the file of the second respondent holding TIN.33705702288. The petitioner is also regularly filing returns under Tamil Nadu Value Added Tax Act and paying legitimate taxes due to the Government after adjusting the Input Tax Credit available on her purchases. While so, during the Assessment Year 2013-2014(TNVAT), the petitioner reported total cum taxable turnover of Rs.13,82,907/- through returns and paid the corresponding taxes due to the respondent Department and the assessment for the subject assessment year was deemed to be completed on 31.10.2014 under Section 22(2) of the TNVAT Act by accepting the turnover reported by the petitioner through returns. Thereafter, the second respondent had issued notice, dated 13.05.2015, to revise the assessment for the year 2013-2014 under Section 27 of the TNVAT Act, pursuant to the inspection in the petitioner's premises on 13.05.2015, alleging that on verification of purchase account, it was found that there is a difference to a tune of Rs.26,886/- and proposed to add freight and gross profit on the said purchase suppression to arrive at the deemed sales value and also proposed to add equal time addition towards the alleged suppression and to levy penalty u/s 27 of TNVAT Act. But the second respondent has not provided any details/copies of the alleged documents relied upon by him in the notice. Hence, the petitioner filed a letter before the second respondent on 27.05.2015 requesting him to provide the details of the alleged dealers. But, suddenly the second respondent has passed the impugned Assessment Order in TIN/33705702288/13-14 , dated 18.06.2015 without providing the details requested by the petitioner. Challenging the same, the present Writ Petition has been filed by the petitioner for the above stated relief.

5. The only submission made by the learned counsel for the petitioner is that before passing the impugned order, no opportunity was given to the petitioner and therefore, the impugned order is liable to be quashed.

6. The learned Additional Government Pleader submitted that the matter may be remitted back to the second respondent for fresh consideration.

7. In view of the same, without going into the merits of the claim made by the petitioner, this Court is inclined to set aside the impugned order.

8. In the result, the Writ Petition is allowed and the impugned order of the second respondent, dated 18.06.2015, is hereby set aside. No Costs. The matter is remitted back to the second respondent and the second respondent is directed to furnish copies of the documents relied on by him in the notice, dated 13.05.2015 and thereafter, pass orders on merits and in accordance with law, by affording an opportunity of hearing to the petitioner. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To
1.The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Commercial Tax Officer,
Shencottah(C) Assessment Circle,
Commerical Tax Office,
No.126, Main Road,
Shencottah,
Thirunelveli District - 627 809.

+1cc to Mr.B.Rooban, Advocate SR.No.50557
+1cc to The Special Government Pleader, Madurai. SR.No.50411

W.P(MD).No.15582 of 2015
31.08.2015

pm
NS/AN-MP/16.09.2015 : 3P/5C