IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.12599 and 12600 of 2014 and

M.P.Nos.1 and 1 of 2014

Arvind Suriya Ceramics
rep. By its Proprietor P.Kumar,
149-B, Rettanai Road, Kooteripattu
Tindivanam Taluk, Villupuram (DT)
...Petitioner in both the Writ Petitions

Vs

The Commercial Tax Officer (Main)
Office of the Commercial Tax Office
Tindivanam
Villupuram (DT) ...Respondent in both the Writ Petitions

Prayer : Writ Petitions have been filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the respondent in TIN-33344723368/2011-12 and 2012-2013 respectively dated 03.01.2014 and 11.02.2014 respectively, quash the same and consequently direct the respondent to revise the Assessment for the year 2011-12 and 2012-2013 respectively.

For Petitioner in all the Petitions : Mr.S.Raveekumar

For Respondent in all Petitioner : Mr.Manokaransundaram Additional Government Pleader

C O M M O N O R D E R

Heard Mr.S.Ravee Kumar, learned counsel appearing for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader appearing for the respondent. With consent the Writ Petition itself is taken up for final disposal.

2. The petitioner, who is a registered dealer under the provisions of the Tamilnadu Value Added Tax Act, 2006 (TNVAT

Act) has filed this Writ Petition challenging the assessment order for the years 2011-12 and 2012-2013 under the provisions of the TNVAT Act.

3. Primary ground on which the impugned order is challenged is that it is in violation of principles of natural justice, since the order has been passed without considering the petitioner's objection.

4. Admittedly, the petitioner's objection was received by the office of the respondent only on 06.01.2014. However, the impugned order is dated 03.01.2014. Though the order is dated 03.01.2014, it has been despatched only on 13.01.2014. By that time, the petitioner's objection was on the file of the respondent.

5. When the petitioner made an application for rectification pleading illiteracy and ignorance, the same has been rejected by the respondent for one of the assessment year, namely, 2012-2013 and for the assessment year 2011-2012, however, the rectification petition under Section 84 of the Act is said to be still pending with the respondent.

6. In any event, considering the peculiar facts and circumstances of the case, this Court is of the view that the petitioner could be afforded one more opportunity, more so when the Writ petition is pending since 2014 onwards, no counter affidavit has been filed and there is a stay of the Impugned Proceedings.

7. In the light of the above, the Writ Petitions are allowed and the impugned orders are set aside. The matter is remanded to the respondent to take fresh consideration. The petitioner is directed to file fresh objections within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondent after affording opportunity of personal hearing to the petitioner shall redo the assessment in accordance with law. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssd

To

The Commercial Tax Officer (Main)
Office of the Commercial Tax Office
Tindivanam
Villupuram (DT)

1 cc to The Special Government Pleader, (Taxes), sr.42167
2 ccs to Mr.S.Raveekumar, Advocate, sr.42294

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kra 08.08.2016