In the High Court of Judicature at Madras

Dated : 09.6.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.19447 of 2016
and WMP.No.16858 of 2016

Tvl.Unimac Plastic Technology
(P) Ltd., rep.by its Director
Mr.P.Gnanasekaran ...Petitioner

Vs

The Commercial Tax Officer,
Ekkatuthangal Assessment Circle,
No.48, Pasumpon Muthuramalinga-
devar Salai, Chennai-28. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent assessment proceedings in TIN : 33340904672/2014-2015 dated 31.3.2016, quash it as illegal, unlawful and unconstitutional and direct the respondent to pass the assessment order afresh after affording an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.M.Desingu

For Respondent : Mr.S.Manohar Sundaram, AGP

ORDER

Mr.S.Manohar Sundaram, learned Additional Government Pleader takes notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner, who is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006, has filed this writ petition challenging the order of assessment passed by the respondent for the assessment year 2014-15.

3. The only ground, on which, the impugned order has been challenged, is by contending that the reply/objection given by the petitioner on 23.3.2016 has yet been considered, though it has been received in the office of the respondent on 23.3.2016 itself. Further, a copy of the letter delivery book has been produced before this Court to establish the same. It is also submitted that

in the show cause notice, the petitioner was granted 15 days' time from the date of receipt of the notice, to file their objections and well before the expiry of 15 days, the impugned order has been passed.

4. Hence, this Court wishes to point out that it is high time that the officials namely Assessing Authorities shall devise a procedure to ensure that objections to the show cause notices are given proper acknowledgment and to avoid cases where the Assessing Officer may not be aware of the objections filed or there may be some unscrupulous dealers, who create certain records to show as if objections have been filed.

5. The learned Additional Government Pleader informs this Court that at present, even the objections have to be filed online and that therefore, this problem will not recur.

6. However, in the instant case, the two grounds pointed out by the petitioner have been established and hence, the impugned order calls for interference.

7. Accordingly, the writ petition is allowed, the impugned order is set aside and the matter is remitted back to the respondent for fresh consideration. The respondent shall afford an opportunity of personal hearing to the petitioner, consider their submissions and documents that they may produce and pass a reasoned order on merits and in accordance in law. No costs. Consequently, the above WMP is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

RS

To

The Commercial Tax Officer,
Ekkatuthangal Assessment Circle, No.48, Pasumpon Muthuramalingadevar Salai, Chennai-28.

1 cc to Spl.Government Pleader, Sr. 31269
1 cc to Mr.M. Desingu, Advocate, Sr. 31122

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WMP.No.16858 of 2016

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