IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2016

CORAM

THE Hon'ble Mr.JUSTICE M. DURAISWAMY

W.P.No.29592 of 2015
and
M.P No.1 of 2015

M/s JMN Distribution Pvt Ltd.,
represented by its Director,
No.1/556, Karthikeyapuram,
2nd Cross Street,
Chennai -91 .... Petitioner

vs

The Assistant Commissioner (CT),
Amaindakarai Assessment Circle,
Chennai - 600 010 ..... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in impugned Order in TIN No.33251025826/2013-14 dated 28.05.2015, quash the same as violtive Section 27 of the TNVAT Act, 2006 and violative of Circular No.7/2014 (BB1/3589/2014) dated 03.02.2014 issued by the Commissioner of Commercial Taxes and against the principles of natural justice and further direct the respondent to pass orders in accordance with law after granting an opportunity of being heard.

For petitioner : Ms.Varshitha for Mr.K. Vaitheeswaran
For respondent : Mr.S. Kanmani Annamalai AGP (T)

ORDER

The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in impugned Order in TIN No.33251025826/2013-14 dated 28.05.2015, quash the same as violtive Section 27 of the TNVAT Act, 2006 and violative of Circular No.7/2014 (BB1/3589/2014) dated 03.02.2014 issued by the Commissioner of Commercial Taxes and against the principles of natural justice and further direct the respondent to pass orders in accordance with law after granting an opportunity of being heard.

2. The petitioner has challenged the impugned order dated 28.05.2015, for the reason that the Rectification Application, filed under Sec.84 of the TNVAT Act, 2006, was not considered by the respondent. According to the petitioner, the Rectification Application dated 08.09.2015, which has been enclosed in the typed set of papers at Page No.43, was sent to the respondent by Registered Post with Acknowledgement Due Card on 10.09.2015. The learned counsel appearing for the petitioner submitted that since the Rectification Application was not considered by the respondent, the impugned order is liable to be set aside.

3. Mr.S. Kanmani Annamalai, learned Additional Government Pleader, appearing for the respondent, submitted that the respondent did not receive the Rectification Application, alleged to have been sent by the petitioner, on 10.09.2015. However, the learned Additional Government Pleader fairly submitted that in the event of the petitioner furnishing one more copy of the Rectification Application before the respondent, the respondent may be directed to consider the same and decide the matter afresh.

4. Having regard to the submissions made by the learned counsel on either side, the impugned order dated 28.05.2015 is set aside and the matter is remanded back to the respondent for fresh consideration. The petitioner is directed to furnish a copy of the Rectification Application, filed under Sec.84 of the TNVAT Act, 2006 dated 08.09.2015 before the respondent within a period of one week from the date of receipt of copy of this order and on production of the Rectification Application dated 08.09.2015, the respondent is directed to decide the application, on merits and in accordance with law. With these observations, the writ petition is disposed of. No costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sr

To

The Assistant Commissioner (CT),
Amaindakarai Assessment Circle,
Chennai - 600 010

+ 1 cc to Special Government Pleader Sr.14535

W.P.No.29592 of 2015

RSY(CO)
Eu 17.03.16