IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.30463 of 2015 and M.P.No.1 and 2 of 2015

M/s Bismillah Industrial Steel Suppliers,
Rep. By its Partner S.Kaleelullah
No.618 and 619, M.T.H.Road,
Chennai - 600 050 ...Petitioner

Vs

1. The Assistant Commissioner (Commercial Taxes)
   Office of the Assistant Commissioner,
   Korattur Assessment Circle,
   No.52/98, Yadava Street,
   Padi, Chennai - 600 050

2. The Commercial Tax Officer,
   Korattur Assessment Circle,
   No.58, Yadava Street,
   Padi, Chennai - 600 050 ...Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records from the 2nd respondent pertaining to the proceedings in Assessment No.33631441262/2013-2014 and quash the order dated 19.08.2015 and consequently forbear the respondents from demanding any amount from the petitioner towards VAT for the Assessment Year 2013-2014, award costs.

For Petitioner : No appearance

For Respondents :Mr.Manokaran Sundaram
Additional Government Pleader

O R D E R

None appears for the petitioner. Heard the learned Additional Government Pleader appearing for the respondents and perused the counter affidavit filed by the 2nd respondent.

2. The petitioner, who is registered as a dealer under the provisions of TNVAT Act, 2006 as well as Central Sales Tax Act, 1956 on the file of the respondent has challenged the impugned order on several grounds.

3. However, on perusal of the material papers in the typed set of papers, it is seen that the pre-revision notice dated 16.02.2015 was issued by the 1st respondent and the petitioner has submitted their objections. But, the 2nd respondent has passed the impugned assessment order and he being a subordinate officer could not have passed the order. Though this contention has not been raised by the petitioner in the affidavit filed in support of the Writ Petition, yet this being a legal plea, this Court has taken into consideration of the same and interfered with the Impugned proceedings.

4. Accordingly, the Writ Petition is allowed and the impugned assessment order dated 19.08.2015 is set aside and the matter is remanded to 1st respondent. The 1st respondent is directed to pass appropriate orders in accordance with law. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1. The Assistant Commissioner (Commercial Taxes)
Office of the Assistant Commissioner,
Korattur Assessment Circle,
No.52/98, Yadava Street,
Padi, Chennai - 600 050

2. The Commercial Tax Officer,
Korattur Assessment Circle,
No.58, Yadava Street,
Padi, Chennai - 600 050

+1 cc to Spl.Govt.Pleader,sr.42175.

skv(co)
krd 4/8