IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.295 of 2014
and
M.P.No.1 of 2014

Tvl.S.K.S.Engineering Works,
Represented by its Proprietor
T.Ramesh,
697-A, Ramarkovil Street,
R.G.Pudur, Coimbatore - 641 062. ... Petitioner

Vs.

The Assistant Commissioner (CT)(FAC),
Peelamedu North Circle,
Coimbatore. ... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of Certiorari, calling for the records on the file of the respondent in TIN:33422124791/2012-13 dated 30.09.2013 and quash the same as being without jurisdiction and authority of law and contrary to the principle laid down by this Court in the judgment reported in W.P.Nos.4259, 4260 and 4261 of 2011 and M.P.Nos.1, 1 & 1 of 2011 dated 15.03.2011 (M/s.Sri Venkata Saibaba Oil Company, Chennai-1 vs. The Assistant Commissioner (CT), Mannady (West) Assmt. Circle, Chennai - 1).

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

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ORDER

Heard Mr.R.Seniappan, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent. By consent, the writ petition is taken up for final disposal.

https://hcservices.ecourts.gov.in/hcservices/

2.The petitioner who is a registered dealer on the file of the respondent has challenged the order of assessment under the provisions of the Tamil Nadu Value Added Act, 2006 for the assessment year 2012-13. The place of business of the petitioner was inspected by the Enforcement Wing Officials on 04.02.2013 and certain defects were noticed. This resulted in a show cause notice being issued to the petitioner. To the show cause notice, the petitioner did not submit a written reply but filed a Photostat copy of the return for the month of January 2013 of M/s.Quality Industries, Nallur Village, Ponneri Taluk, Chennai. The respondent, on perusal of the same, came to the conclusion that the return is not an original return, it is a manipulated return submitted after the date of inspection on 05.03.2013 and the demand draft details were inserted to safeguard the buyer, namely, the petitioner herein. Thus, there is an allegation of tampering all the e-return filed by the selling dealer. If the allegation is true then it is a very serious matter. However, before finalizing the assessment, the respondent should have given an opportunity to the petitioner to rebut the adverse inference drawn against him.

3.That apart, it is not known as to whether any verification is done with the Assessing Officer with regard to M/s.Quality Industries. Thus the respondent should do a comprehensive exercise to establish the guilty and penalize the person who had done the alleged fraud. Hence, the impugned order has to be set aside and the matter is to be remanded to the respondent for fresh consideration. Therefore, the respondent is directed to issue a show cause notice to the petitioner, call upon the petitioner to appear in person on the appointed date and produce all the records in his possession. Simultaneously, the respondent also directed to ascertain the correct facts from the Assessing Officer with regard to M/s.Quality Industries and with all the materials available, the respondent shall finalize the assessment, re-do the assessment in accordance with law and in the event of tampering of any Government record, then it is also open to the respondent to initiate appropriate criminal action.

4.With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (CT)(FAC),
Peelamedu North Circle,
Coimbatore.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.62703
+1cc to the Special Government Pleader(T), S.R.No.62660

W.P.No.295 of 2014
and
M.P.No.1 of 2014

TRM(CO)
CA(25/11/2016)

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