IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.06.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.8936 of 2015 and
M.P.No.1 of 2015

M/s.Mahaveer Surfants Pvt. Ltd.,
rep. by its Director,
R.S.No.50/2 and 3 Konerikuppam Road,
Olaivaikkal Village,Puducherry- 605 502. ...Petitioner

Vs.

The Additional Deputy Commercial Tax Officer IW,
Office of the Commercial Tax Officer - IW,
Commercial Taxes Department,
Puducherry. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records of the respondent, in his proceedings in No.34170008372/CTO-1W/2014-15, dated 27.02.2015, and to quash the order made thereunder.

For Petitioner : Mr.C.Subramanian

For Respondent : Mr.A.Tamilvannan
Government Advocate (Puducherry)

सत्यमेव जयते

O R D E R

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Heard Mr.C.Subramanian, learned counsel appearing for the petitioner, and Mr.A.Tamil Vanan, learned Government Advocate (Puducherry) for the respondent, and perused the materials available on record.

2. The petitioner, who is engaged in the business of manufacture of Acid Slurry, Spent Acid and other allied items, is a registered dealer on the file of Commercial Tax Officer (IAC) Puducherry, under the provisions of Puducherry Value Added Tax Act, 2007, and the challenge in this Writ Petition is to the order, dated 27.02.2015 passed by the respondent, who is an

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Intelligence Wing Officer, whereby, the petitioner has been directed to pay the tax and penalty at the rates mentioned in the impugned order.

3. The bone of contention of the learned counsel appearing for the petitioner is that, the impugned order passed by the respondent is wholly not tenable, and liable to be quashed, for the simple reason that the respondent, being an Officer of the Intelligence Wing, is not the competent authority to pass the same, and the competent Authority, who is entitled to do the same, is the Assessing Officer, viz., Commercial Tax Officer (IAC) Puducherry. Therefore, the learned counsel prayed for allowing the Writ Petition.

4. Though counter affidavit has been filed by the respondent, refuting the statements made by the petitioner, in the affidavit filed in support of the Writ Petition, learned Government Advocate (Puducherry) has no say to the stand taken by the learned counsel appearing for the petitioner.

5. Thus, as rightly pointed out by the learned counsel appearing for the petitioner, the respondent, being the Officer of Intelligence Wing, is not empowered to initiate assessment proceedings, and the competent authority, who is entitled to do the same, is the Assessing Authority. All that, the respondent herein is expected to do is that, to place all materials, in the form of a report, pointing out the defects/discrepancies found during the inspection done at the place of the petitioner's business premises, before the Assessing Authority for passing the assessment order.

6. For the reasons, as stated supra, this Writ Petition is allowed, the impugned order is set aside, and the matter is directed to be dealt with by the Assessing Authority, viz., the Commercial Tax Officer (IAC) Puducherry. It is open to the said Assessing Authority to issue proper notice to the petitioner on the basis of the subject matter now placed before this Court. On issuance of such notice, necessary objection be filed by the petitioner, within a period of two weeks, and thereafter, the Assessing Authority, after affording due opportunity of personal hearing to the petitioner, shall adjudicate the matter, and pass appropriate orders on merits and in accordance with law, within a period of six weeks.

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7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Additional Deputy Commercial Tax Officer IW,
Office of the Commercial Tax Officer - IW,
Commercial Taxes Department,
Puducherry.

1 cc to The Government Pleader, sr.31612

Writ Petition No.8936 of 2015

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