IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.08.2016

Coram

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

Writ Petition No.26151 of 2016
and
W.M.P.No.22431 of 2016

M/s. Dharani Hi-Tech Projects Pvt. Ltd.,
rep. by its Authorized Signatory,
No.28, Annavasal Street,
Mannargudi, Thiruvarur District. ...Petitioner

Vs.

The Commercial Tax Officer,
Mannargudi Assessment Circle,
Thiruvarur District. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the respondent in his proceedings in TIN No.33183862872/2014-15, dated 28.06.2016, and to quash the order passed therein and to direct the respondent to pass fresh orders after giving an opportunity of personal hearing under Section 5 of TNVAT Act and to rectify the above impugned assessment order under Section 84 of TNVAT Act.

For Petitioner : Mr.C.Baktha Siromoni

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

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O R D E R

Heard Mr.C.Baktha Siromoni, learned counsel appearing for the petitioner, and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for respondents. With the consent of the learned counsel on either side, the Writ Petition is taken up final disposal.

2. The petitioner is a registered dealer, on the file of the respondent, under the provisions of Tamil Nadu Value Added

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Tax Act, 2006 (hereinafter, referred to as 'the Act'), and they have challenged the order of assessment passed by the respondent, dated 28.06.2016, for the year 2014-15.

3. The only ground on which the impugned order has been challenged, is by contending that, though the respondent has extracted the petitioner's objection, dated 30.09.2015, without considering any of the issues raised by the petitioner, in a single line, has rejected the objection and confirmed the proposal made in the pre-assessment notice, dated 10.08.2015.

4. When the case came up for admission before this Court, this Court was, prima facie, satisfied that the impugned order is a non-speaking order. Therefore, the learned Additional Government Pleader was directed to get instructions in the matter. In pursuance thereof, the respondent has given written instructions to the learned Special Government Pleader, (Taxes) by a communication, dated 01.08.2016, wherein, the respondent would state that, there are certain documents, which are required to be produced by the petitioner, and, if the same is produced, the respondent is ready and willing to redo the assessment. Though such a stand has been taken in the written instructions given to the Special Government Pleader, in the impugned order, the respondent has not even discussed any of the issues raised by the petitioner, in their objection, dated 30.09.2015. The Assessing Officer, being a Statutory Authority, has to independently apply his mind and take a decision in the matter, and they cannot complete the assessment, in the manner, as done by the respondent herein. Therefore, the impugned order, being a non-speaking order, and having been passed without due application of mind, the same calls for interference.

5. In the result, the Writ Petition is allowed, the order impugned stands quashed, and the matter is remanded to the respondent for fresh consideration. The respondent is directed to afford an opportunity of personal hearing to the petitioner, in which, the respondent shall call for necessary documents, give sufficient time to the petitioner to produce supportive documents and after hearing the petitioner's objection and perusing the records, shall redo the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer,
Mannargudi Assessment Circle,
Thiruvarur District.

1 cc to Mr.C.Bakthasiromani, Advocate, sr.44732
1 cc to Special Government Pleader, sr.44772

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