In the High Court of Judicature at Madras

Dated : 11.8.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.28149 of 2016
&
WMP.No.24283 of 2016

M/s.A.C.Tiles, rep.by its
Proprietor K.M.Ameenur Rahman ...Petitioner

Vs.

The Assistant Commissioner (CT),
Vaniyambadi Assessment Circle,
Vaniyambadi, Vellore District. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent in his proceedings in TIN No.33424642814/2013-14 dated 15.7.2016, quash the same and direct the respondent to furnish the copies of sale invoice and mode of payment made for the transaction and to arrange for cross examination of the other State sellers as requested by the petitioner in his reply dated 30.6.2016.

For Petitioner : Mr.S.Ramanathan
For Respondent : Mrs.Vasudha Thiagarajan, AGP

ORDER

Mrs.Vasudha Thiagarajan, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner, which is a registered dealer on the file of the respondent, has challenged the order of assessment dated 15.7.2016 for the year 2013-14 under the Tamil Nadu Value Added Tax Act, 2006.

3. After hearing the arguments of the learned counsel on either side and perusing the impugned order of assessment, it has to be pointed out that the impugned assessment order is illegal and not sustainable in law. The respondent abdicated his statutory powers as an Assessing officer and he appears to be oblivious of completion of an assessment. To say the least, the impugned order is a classic example as to how an Assessing Officer should not act.

4. After issuing a notice proposing to revise the assessment for the relevant assessment year on 15.6.2016, the respondent invited objections of the petitioner. The petitioner submitted their objections dated 30.6.2016. Thereafter, what the Assessing Officer is expected to do is to afford an opportunity of personal hearing and if the dealer seeks any details, the same shall be furnished to them and if not able to furnish, proper reasons be given. In turn, if the Assessing Officer requires any document from the dealer, he has to call upon the dealer to produce the same and thereafter, after affording an opportunity of personal hearing, the Assessing Officer shall complete the assessment by passing a speaking order with reasons.

5. However, in the instant case, what the respondent has done is to extract the objections of the petitioner in its entirety and in a single line, has overruled the objections. That apart, the respondent has stated that the petitioner accepted the defects at the time of inspection before the Enforcement Wing Officials. On a perusal of the statement recorded from the petitioner by the Officials of the Enforcement Wing on 14.12.2015, it is seen that there is no admission made by the petitioner. In fact, he has specifically stated that he did not have any transactions with 27 dealers, as mentioned by them and that he is not liable to pay tax. In such circumstances, the observation made by the respondent in the impugned order is perverse. For all the above reasons, the impugned order calls for interference.

6. Accordingly, the writ petition is allowed and the impugned order is set aside leaving it open to the respondent to proceed in accordance with law. No costs. Consequently, the above WMP is closed.

RS

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT), Vaniyambadi Assessment Circle,
Vaniyambadi, Vellore District.

+ 1 cc to Mr.S.Ramanathan, Advocate Sr 45889
+ 1 cc to The Spl.Govt.Pleaer, (Taxes) Sr 46117

KR/2/9/16

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