IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.41489 of 2016
& WMP.No.35465 of 2016

M/s.Rattha Somerset Greenways Chennai Pvt., Ltd.,
Represented by its Director,
LH/07488, No.94, Sathyadev Avenue,
MRC Nagar, Chennai -600 028. ... Petitioner

Vs

The Assistant Commissioner,
Mandaveli Assessment Circle,
Chennai - 600 028. ... Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the respondent on the impugned notice TIN No.33270702708 dated 21.11.2016, quash the same as it violative of principles of natural justice and also against the provisions of law as far as the petitioner is concerned.

For Petitioner : Mr.K.Vaitheeswaran

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

ORDER

Heard Mr.K.Vaitheeswaran, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader accepting notice on behalf of the respondent and with consent on either side, the writ petition itself is taken up for final disposal.

2.The petitioner, who is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act), has filed this writ petition challenging the notice dated 21.11.2016, by which, the

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respondent has directed the petitioner to pay the arrears of tax for the assessment years 2011-2012 to 2014-2015.

3.It is seen that at the very same day i.e. on 21.11.2016, the respondent issued notices to the petitioner for all the aforesaid assessment years stating that the demand for payment of tax is automatic as tax has not been deducted at source and the petitioner has not produced proof. However, the respondent has not given any opportunity to the petitioner either to produce the documents to establish that their contractors have deducted tax at source, has straightaway issued the demand notice dated 21.11.2016. This is in violation of the principles of natural justice.

4.Accordingly, the Writ Petition is disposed of, by directing the respondent to keep the recovery notice dated 21.11.2016 in abeyance. The petitioner is directed to submit their objections to the notice dated 21.11.2016, in and by which, the respondent has demanded tax and such objections shall be submitted by the petitioner within a period of 15 days from the date of receipt of a copy of this order. Along with the objections, the petitioner is entitled to produce proof to show that the tax has been deducted at source by the contractors. On receipt of the objection, the respondent shall consider the same, affording an opportunity of personal hearing and thereafter proceed in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Sgl

To

The Assistant Commissioner,
Mandaveli Assessment Circle,
Chennai - 600 028.

+1cc to Mr.K.Vaitheeswaran, Advocate, S.R.No.68994
+1cc to the Special Government Pleader(T), S.R.No.69232

W.P.No.41489 of 2016

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

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