IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.01.2016

CORAM

The Hon'ble Mr.Justice R.Mahadevan

Writ Petition No.423 of 2016
and
W.M.P.No.284 of 2016

M/s.Southern Scientific Lab Instruments,
No.97, Sai Nivas, Brindavan Nagar,
Vanagaram Road, Near Ashok Nandavanam,
Noombal, Chennai - 600 077
Rep. by its Partner. ... Petitioner

Vs.

The Assistant Commissioner (CT)
O/o.Asst. Commissioner of Commercial Taxes,
Vanagaram Assessment Circle,
No.179-B, MTH Road, Villivakkam,
Chennai - 600 049. ... Respondent

Prayer:-
Writ petition has been filed 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 leading to passing of the Revised Assessment Order, vide TIN 33721351245/2011-12, dated 15.09.2015, and to quash the same, and to direct the respondent to pass fresh revised assessment order after considering the reply filed by the petitioner and after giving opportunity of personal hearing to the petitioner.

For Petitioner : Mr.S.Sathiyanarayanan

For Respondent : Mr.V.Haribabu,
Additional Government Pleader

O R D E R

The challenge in this Writ Petition is to the Revised Assessment Order, passed by the respondent in TIN 33721351245/2011-12, dated 15.09.2015.

2. The petitioner is a registered dealer under the provisions of TNVAT Act. Being an assessee on the file of the respondent-Department, they filed monthly returns for the assessment year 2011-2012. Though self assessment order was

passed in respect of the said assessment year, the respondent, on the basis of audit inspection conducted by the Officials of the Enforcement Wing in the petitioner's business premises, issued a show cause notice, dated 31.07.2015, proposing to reverse the petitioner's claim for ITC, and also to levy penalty/interest under Section 27 of the Act, and sought for reply/objection to be filed within 15 days. Though the petitioner filed reply, dated 12.09.2015, answering point wise to the show cause notice, more particularly, with regard to the difference between the purchase turnover reported in the monthly returns and the turnover as per the books of accounts, and the transactions made towards Special Economic Zone Units, the only flaw committed by the petitioner is the failure to adduce necessary documentary evidence to the Assessing Authority for consideration before passing the impugned order.

3. Admittedly, before passing the impugned order, no opportunity of personal hearing was given to the petitioner, so as to enable them to produce all the supportive documents to defend their claim. Hence, the learned counsel appearing for the petitioner submitted that, it would be suffice, if an opportunity is given to the petitioner for production of necessary documents as well as to file additional objection, if any, the petitioner desire so, as that would meet the ends of justice, for which course, the learned Additional Government Pleader for the respondent has no serious objection.

4. In the light of the above, the impugned order is set aside and the matter is remitted to the respondent-Assessing Authority for passing fresh orders after granting sufficient opportunity of personal hearing to the petitioner, for which purpose, the petitioner is directed to appear before the respondent along with supportive documentary evidences in any of the working days within a period of two weeks from the date of receipt of a copy of this order. On such documentary evidence being produced by the petitioner, the respondent is directed to consider the same and pass appropriate orders within a period of six weeks thereafter.

5. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected W.M.P. is closed.

sd/rms

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

The Asst.Commissioner (CT)
O/o.Asst.Commissioner of Commercial Taxes,
Vanagaram Assessment Circle,
No.179-B, MTH Road, Villivakkam,
Chennai - 600 049.

+ 1 cc to Mr.S.Sathiyanarayanan, Advocate SR 3943

+ 1 cc to Spl.Govt.Pleader High Court, Madras SR 4144

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prk10/2 W.P.No.423 of 2016