IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.No.4389 of 2016 &
W.M.P.No.3738 of 2016

M/s.Allwyn Builders
Rep. by its Prop. Y.Rubandas
69/246 1st Street
Agan Nagar, Palanipet
Arakkonam, Vellore District. .. Petitioner

v.

The Commercial Tax Officer
Arakkonam Assessment Circle
Arakkonam
Vellore District. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings in TIN 33944302834/13-14 dated 29.06.2015 and quash the same as illegal and direct the respondent to receive the Form WW for the year 2013-14 and to complete the assessment in accordance with law.

For Petitioner : Mr.S.Ramanathan

For Respondent : Mr.Manoharan Sundaram
Addl. Govt. Pleader

ORDER

Heard Mr.S.Ramanathan, learned counsel appearing for the petitioner. Mr.Manoharan Sundaram, learned Additional Government Pleader, takes notice for the respondent. By consent of both the counsels, the writ petition itself is taken up for final hearing at the admission stage itself.

2. The petitioner has filed the above writ petition to issue a writ of Certiorarified Mandamus to call for the records of the respondent in his proceedings in TIN 33944302834/13-14, dated 29.06.2015 and quash the same as illegal and direct the respondent to receive the Form WW for the year 2013-14 and to complete the assessment in accordance with law.

3. It is the case of the petitioner that the respondent issued a notice dated 16.02.2015 asking for the details of import purchases. The petitioner met the

respondent in person and gave the particulars. Subsequently, the respondent issued notice dated 10.04.2015 proposing to estimate the import purchase stating that it was not accounted for. The petitioner filed a reply dated 16.04.2015 stating that all the purchases are accounted. However, the respondent has confirmed the proposal and passed the impugned order. According to the petitioner, as per the provisions of Section 63-A of the Tamil Nadu Value Added Tax Act, 2006, if the turnover exceeds Rs.1 crore, then, report of the Auditor in Form WW should be filed and the assessment should be completed based on the above audited report. The respondent without receiving the Form WW has passed the impugned order. Challenging the said impugned order, the petitioner has filed the present writ petition.

4. Mr.Manoharan Sundaram, learned Additional Government Pleader submitted that the petitioner may be directed to submit Form WW and penalty along with their objections before the respondent and on receipt of Form WW and the penalty along with their objections, the respondent may be directed to pass fresh orders.

5. Having regard to the submissions made by the learned counsel on either side, the impugned order dated 29.06.2015 is set aside and the matter is remanded back to the respondent for passing appropriate orders afresh. The petitioner is permitted to produce Form WW and the penalty of Rs.10,000/- along with their objections before the respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of such filing, the respondent shall consider the same and pass fresh orders, on merits and in accordance with law, after giving due opportunity to the petitioner, within a period of two weeks thereafter.

With these observations, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Rj

To

The Commercial Tax Officer
Arakkonam Assessment Circle
Arakkonam
Vellore District.

+1cc to Mr.S. Ramanathan, Advocate, S.R.No.7461

+1cc to the Government Pleader, S.R.No.7741

RSI(CO)
EU(17/02/2016)

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