BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2016

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) No.19861 of 2016

M/s.Jay Engineering Industries,
rep.by its authorised signatory
Mr.S.Narayanasamy ... Petitioner

-vs-

The Assistant Commissioner (CT)
Tiruverumbur Assessment Circle,
Commercial Tax Buildings,
Trichy – 20. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the file of the Respondent in CST:927318/2014-15 dated 7.6.2016 and quash the same as illegal without jurisdiction violation of principles of natural justice and contrary to the Provisions of the Act.

For Petitioner : Mr.S.Karunakar
For Respondent : Mr.R.Karthikeyan
Additional Government Pleader

O R D E R

This writ petition has been filed seeking to quash the order passed by the respondent dated 07.06.2016 as illegal.

2.Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

3.It is the claim of the petitioner that the assessment in the order dated 07.06.2016 proceeded on a totally different basis than what was alleged in the pre-revision notice and that without an opportunity of hearing to the petitioner, such assessment has been made and therefore, it is an order to be quashed.

4.The specific contention is that the petitioner was not put on notice with regard to assessment in the revision notice dated 27.04.2016 with regard to levy of tax on disallowance of exempted sales and levy of tax more so the impugned assessment has saddled the petitioner with huge liability of tax and penalty.

4.1. The grievance is that levy of sales tax on the turnover which had already suffered service tax liability is not sustainable and it would amount to double taxation. Thus, it is clear that the petitioner has an arguable case.

5.The learned Additional Government Pleader for the respondent submitted that subject to payment of 15% of the tax, an opportunity of hearing may be provided to the petitioner and that would be in the interest on both sides.

6.The learned counsel for the petitioner is agreeable to pay 10% of the tax due within a period of four weeks.

7.Under such circumstances, the impugned order passed by the respondent dated 07.06.2016 is set aside. The matter is remitted back to the respondent subject to the petitioner depositing 10% of the disputed tax amount within a period of four weeks. On such deposit, the respondent shall offer an opportunity of hearing to the petitioner and then pass orders on merits and in accordance with law.

8.The Writ Petition is ordered accordingly. No costs. Consequently, WMP(MD)No.14341 of 2016 is closed.

Sd/-
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To
The Assistant Commissioner (CT)
Tiruverumbur Assessment Circle,
Commercial Tax Buildings,
Trichy - 20.

+1 CC to M/s. S.KARUNAKAR, Advocate, SR No. 68718

+1 CC to M/s. THE SPECIAL GOVERNMENT PLEADER, SR No. 68833

MJ
PSM/SKN-RSK/07.02.2017/2P/4C

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