IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.02.2017

CORAM

THE HONOURABLE Mr.JUSTICE RAJIV SHAKDHER

W.P.No.4174 of 2017
and W.M.P.No.4331 of 2017

D.Giridharan ... Petitioner

Vs

Income Tax Officer,
Non Corporate Ward 9[3],
Room No.212, 2nd Floor, Wanarparthy Block,
No.121, MG Road, Chennai-34. ... Respondent

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records of the respondent in his proceedings leading to passing of the order vide AHYPG9179R/2014-15 dated 06.02.2017, quash the same and direct the respondent to pass rectification order after providing an opportunity of personal hearing.

For Petitioner : Mr.S.Sathiyanarayanan
For Respondent : Mr.T.Pramod kUmar Chopda

O R D E R

1. Issue notice. Mr.T.Pramod Kumar Chopda accepts notice on behalf of the respondent.

2. With the consent of counsel for the parties, the captioned Writ Petition is taken up for final hearing and disposal.

3. By this Writ Petition, challenge is made to the order dated 06.02.2017 passed by the respondent, whereby in effect, petitioner's request for rectification made vide communication dated 02.02.2017 was rejected.

4. Briefly, the petitioner's case is that, while filing his Income Tax Returns, the purchases made for relevant Assessment Year 2014-15 was indicated as Rs.7,06,51,037/-, as against the figure, which ought to have been shown, which, is Rs.8,06,51,037/-. According to the petitioner, this was a clerical error.

4.1. The fact that it is a clerical error was sought to be demonstrated by the petitioner by relying upon the Tax Audit Report dated 29.09.2014 generated under section 44AB of the Income Tax Act, 1961 and, the monthly return filed in the requisite form, with the Sales Tax Department for the relevant period.

5. To be noted is, so far as the representation dated 02.02.2017 was concerned, while it indicates that annexures have been appended, the details of annexures is not given.

5.1. The record also shows that after the issuance of the impugned order dated 06.02.2017, yet another representation was made, which is, dated 08.02.2017. In the said representation, there is a reference to the fact that in the Sales Tax Returns filed by the petitioner, purchases made in the relevant year had been declared at the correct figure i.e., Rs.8,06,51,037/-.

6. Having regard to the aforesaid documents, I am inclined to set aside the impugned order dated 06.02.2017, with a direction to the respondent to take into account, not only the Tax Audit Report, but also disclosures made by the petitioner, in his Sales Tax returns for the relevant period.

7. The respondent will, accordingly, pass a fresh order, after giving due opportunity to the petitioner of a personal hearing. If additional documents are required to be filed by the respondent, that aspect will be up to the petitioner, who will supply the same. Needless to say, the respondent will pass a speaking order; a copy of which will be supplied to the petitioner.

8. The Writ Petition is disposed of, in terms of the aforesaid directions. Consequently, pending Miscellaneous Petition stands closed. There shall, however, be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Income Tax Officer,
Non Corporate Ward 9(3)
Room No. 212, 2nd Floor, Wanaparthy Block,
No.121, M.G. Road, Chennai- 600 034.

+1cc to Mr.T. Pramod Kumar Chopda, Advocate Sr. 10555
+1cc to Mr.S. Sathiyanarayanan, Advocate Sr. 10818

W.P.No.4174 of 2017
and
W.M.P.No.4331 of 2017

NMI(CO)
VR(27/03/2017)