IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.04.2017

CORAM

THE HONOURABLE MR.JUSTICE RAVICHANDRABAABU

W.P.No.8150 of 2017
and
W.M.P.Nos.8933 and 8934 of 2017

Tvl.Balakrishnan
represented by his proprietor,
No.70,Big Bazaar Street,
Parangipettai, Bhuvanagiri Taluk ... Petitioner

vs.

The Deputy Commercial Tax Officer,
Chidambaram I Circle ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified mandamus calling for the records of the Order of Assessment passed by the respondent in TIN 33384441464/2014-15 dated 30.06.2016 and to quash the same as illegal, arbitrary, unconstitutional and have been passed in violation of principles of natural justice and further direct the respondent to pass fresh orders of assessment in accordance with law under Sec.22 (4) of the TNVAT Act after granting an opportunity of personal hearing to the petitioner to file their objections.

For Petitioner : Mr.R.Ganesh Kanna
For Respondents : Mr.K.Venkatesh,
Government Advocate.

O R D E R

Mr.K.Venkatesh, learned Government Advocate, takes notice for the respondent and by consent of the parties, the main writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved against the order of assessment dated 30.06.2016. The main grievance of the petitioner is that the impugned order was passed in violation of principles of natural justice, as the Assessing Authority has passed the impugned order without furnishing the documents sought for by the petitioner in their reply.

3. Heard both sides.

4. In respect of the assessment year 2014-2015, the petitioner was issued with a notice of proposal dated 10.05.2016. On receipt of such notice, admittedly, the petitioner filed his objection dated 25.05.2016 wherein he sought for the xerox copies of the purchase bills, which are relied on by the Assessing Authority to issue the notice of proposal. Even though the Assessing Officer has admitted the receipt of such objection and found that the petitioner has sought for such documents from the Assessing Officer, he has passed the impugned order without there being any discussion as to whether such request of the petitioner was considered and the documents were furnished to him or not. On the other hand, the Assessing Officer simply rejected the objections raised by the petitioner by giving a single line finding that the petitioner has failed to file their objection with the supporting documents. Needless to say that when the petitioner has sought for certain documents which are relied on by the Assessing Officer in the proposal, unless and until those documents are furnished to the petitioner, he cannot be excepted to file an effective reply/objection. Therefore, without considering the above aspect, the impugned order was passed, which in my considered view, is not in compliance with the principles of natural justice in its strict sense. Therefore, I find every justification to set aside the impugned order and remit the matter back to the respondent for redoing the assessment and pass a fresh order after giving a personal hearing to the petitioner and also furnishing the documents sought for by him.

5. Accordingly, the writ petition is allowed and the impugned order is set aside and the matter is remitted back to the respondent to redo the assessment by reopening the same and pass a fresh order after giving personal hearing to the petitioner and also furnishing the documents sought for by him. Such exercise shall be done by the respondent within a period of four weeks from the date of receipt of a copy of this order. It is made clear that this Court has not gone into the merits of the claim of the respective parties as it is for the respondent to consider and decide the same on its own merits and in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

vsi

1. The Deputy Commercial Tax Officie,
Chidambaram, I circle.

+1cc to Mr. A. ravichandran, Advocate Sr. 20713

+1cc to the special Government Pleader Sr. 20854

W.P.No.8150 of 2017

PPA(CO)
VR(18/04/2017)