IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.03.2017

CORAM:

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.5239 of 2017 &
W.M.P.No.5561 of 2017

Bhoomi and Buildings Private Ltd.,
Represented by its Managing Director,
Sundar Arumugam
Old No.6, Padmanabha Nagar,
2nd Street, Adyar,
Chennai-600 020. ..Petitioner

Vs.

The Commercial Tax Officer,
Adyar Assessment Circle,
No.46, Greenways Road,
Chennai-600 028. ..Respondent

Prayer : Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the records of the impugned proceeding in TIN/33170964178/2013-14 dated 27.01.2017 by the respondent and quash the same and further direct the respondent to re-do the assessment, after calling for the books of accounts of the petitioner.

For Petitioner : Mr.N.Murali

For Respondent : Mr.S.Kanmani Annamalai
Addl. Govt. Pleader (Taxes)

O R D E R

The petitioner, being a registered dealer on the file of the respondent, they are engaged in civil construction of residential/commercial buildings. They have also opted for composition of scheme under Section 6 of the Tamil Nadu Value Added Tax Act, 2006, being works contractor. However, when the original assessment was completed under Section 22(2) as Self Assessment and consequently, there was no examination of books of accounts. The respondent has issued a notice dated 25.02.2016 with three proposals and modified notice dated 01.09.2016 with five proposals on various amounts resulting into sales on the basis of comparison of Form L with Form – WW and trading, profit and loss account and balance sheet and thereafter, the petitioner submitted their reply dated 24.10.2016 explaining the nature of differences and also making a request to fix proper time for production of documents and this could be seen from the letter dated 24.10.2016 and 17.01.2017 respectively. When the petitioner has been requesting the respondent to give them time to present their papers to clarify the observations made in the notice, without even considering the repeated requests made by the petitioner, the impugned order has been passed. Hence, the present writ petition.

2.Learned Additional Government Pleader (Taxes) appearing for the respondent also finding that the repeated request dated 24.10.2016 and 17.01.2017 made by the petitioner went unnoticed, submitted that no justification can be entertained from the respondent to ignore the same. As mentioned above, the petitioner has been requesting the respondent to give them time to explain their case with all documents but sadly it was overlooked, therefore, this Court is not inclined to accept the impugned order and accordingly, the same is set aside as there is a clear violation of principles of natural justice. In view of setting aside the impugned order, the matter is remitted back to the file of the respondent with a direction to re-assess and re-do the assessment after calling the books of accounts of the petitioner.

3.Accordingly, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To
The Commercial Tax Officer,
Adyar Assessment Circle,
No.46, Greenways Road,
Chennai-600 028.

+1 cc to M/s.N.Murali,advocate,sr.5239

rsk(co)
krd 13/4

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