In the High Court of Judicature at Madras
Dated: 21.03.2017
Coram
The Honourable Mr.JUSTICE K.RAVICHANDRABAABU

W.P.No.6776 of 2017
and
WMP Nos.7345 and 7346 of 2017

M/s.Srinivasa Medicals,
Rep. By its Proprietor-P.Purushothaman,
No.51/CS, Sannathi Street,
Vandavasi 604 408,
Tiruvannamalai District. ... Petitioner

Vs.

The Commercial Tax Officer,
Vandavasi 604 408,
Tiruvannamalai District. ...Respondent

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari to call for the records of the respondent in his impugned proceedings made in TIN No.33634600552/2015-2016 dated 09.12.2016 quash the same.

For Petitioner : M/s.R.Hemalatha

For Respondents : Mr.S.Kanmani Annamalai
Additional Government Pleader (T)

O R D E R

Mr.S.Kanmani Annamalai, learned Additional Government Pleader takes notice for the respondent. By consent of parties, the main writ petition itself is taken up for final disposal at the admission stage.

2.The petitioner is a dealer. For the Assessment Year 2015-2016, the Assessing Officer issued a pre revision notice dated 13.06.2016, stating that the petitioner had suppressed the turnover and not disclosed to the department that the turnover exceeded Rs.50,00,000/-. The petitioner submitted their objections on 28.06.2016. They also contested the equal addition for probable omission and the penalty. The Assessing Officer passed an order of assessment on 21.07.2016. The said order was challenged before this court in W.P.No.30235 of 2016, by contending that the turnover never crossed the limit of

Rs.50,00,000/- and that the respondent has clubbed the turnover for the assessment year from 2010-11 to January 2016.

3.This court, while disposing of the above writ petition, found that the clubbing of turnover cannot be done and that the Assessing Officer should be directed to consider the objections raised by the petitioner. Accordingly, the said writ petition was disposed of, without setting aside the order of assessment and only by directing the same to be treated as the show cause notice, further by directing the petitioner to file their objections after making all the factual and legal contentions within a period of two weeks. The Assessing Officer was further directed to afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law.

4.Consequent upon such order, the petitioner was called upon to file their objections also by affording the opportunity of personal hearing, through notice dated 27.10.2016. It is stated that the petitioner filed their objections in detail, as required by the respondent in the notice dated 27.10.2016. It is also seen that a personal hearing was also conducted on 18.11.2016. However, the Assessing Officer has passed the impugned order of assessment on 09.12.2016, without discussing any of the objections raised by the petitioner and giving his independent view on such objection and clear cut finding on the same. Perusal of the impugned order would undoubtedly indicate that the same was passed as a single line order without there being any discussion on the objections raised by the petitioner. Therefore, this court is fully convinced that it is a non speaking order, which cannot be sustained. Accordingly, the writ petition is allowed and the impugned order is set aside and the matter is remitted back to the Assessing Authority to consider the matter afresh and pass a speaking order on the objections filed by the petitioner. 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. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vri

To

The Commercial Tax Officer,
Vandavasi 604 408,
Tiruvannamalai District.

+1cc to the Government Pleader, S.R.No.17616

W.P.No.6776 of 2017

SK(CO)
RS(04/04/2017)