IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.01.2017

CORAM

THE HONOURABLE Mr.JUSTICE RAJIV SHAKDHER

W.P.Nos.44436 of 2016
and W.M.P.No.38276 of 2016

R.Kubendran ... Petitioner

Vs

Assistant Commissioner [CT],
O/o.Asst. Commissioner of Commercial Taxes,
Sholinganallur Assessment Circle,
Plot No.141, Burma Colony,
1st Main Road, Perungudi,
Chennai-96. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the respondent in his proceedings leading to passing of the Assessment Order vide TIN/33600924899/2013-14 dated 15.09.2016, quash the same and direct the respondent to pass fresh revised assessment order after providing an opportunity of reply and personal hearing.

For Petitioner : Mr.S.Sathyanarayanan

For Respondents : Mr.K.Venkatesh,
Government Advocate

O R D E R

1. Issue notice. Mr.K.Venkatesh, learned Government Advocate, 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 virtue of this Writ Petition, challenge is made to the Assessment Order, dated 15.09.2016. The petitioner has raised two principle objections to the impugned Assessment Order. First, that the petitioner was chargeable to Value Added Tax, if at all, under Section 5 of the Tamil Nadu Value Added Tax, 2006 and that the Assessment Order instead has been passed under Section 6 of the Act, 2006. Second, the show cause notice was directed to an address, which was not the registered address of the petitioner.

3.1. For this purpose, my attention has been drawn to the Certificate of Registration, which is appended at page No.1 of the typed set of documents of the petition. The petitioner says that the address given in the show cause notice dated 22.08.2016 is not the same as the address given in the Certificate of Registration.

4. Counsel for the respondent Mr.K.Venkatesh, on the other hand, says that the aforementioned objections could be taken in a rectification petition filed under Section 84 of the Tamil Nadu Value Added Tax, 2006, and if, the petitioner is right, then, necessary corrective measures can be taken by the respondent.

5. Mr.S.Sathyanarayanan, who appears for the petitioner says that he is not averse to the suggestion made to file a rectification petition. Learned counsel says that his only concern is that in the meanwhile, no coercive action is taken against the petitioner.

6. Having regard to the contentions made before me, the Writ Petition is disposed of with the following directions:

i. The petitioner will file a rectification petition within a period of two weeks from the date of receipt of a copy of the order.

ii. Pending disposal of the rectification petition, no coercive measures will be taken against the petitioner.

iii. In case, rectification petition is not filed within the time frame stipulated above, the protection granted to the petitioner will dissolve automatically.

7. As indicated above, the Writ Petition is disposed of. Consequently, pending Miscellaneous Petition stands closed. There shall, however, be no order as to costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/
Sub Asst. Registrar

gya

To

The Assistant Commissioner [CT],
O/o.Asst. Commissioner of Commercial Taxes,
Sholinganallur Assessment Circle,
Plot No.141, Burma Colony,
1st Main Road, Perungudi,
Chennai-96.

1 cc to M/s.S. Sathiyanarayanan, Advocate, Sr. 16
1 cc to Government Pleader (Taxes), Sr. 158

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RSK (CO)
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