BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

WP(MD)No.16285 of 2017
and
WMP(MD)No.12940 of 2017

Parvathy Power System
Represented by its' Proprietor,
R.Ramkumar
No.4 Valampuri Ammankoil Street,
S.N.High Road, Tirunelveli. ... Petitioner

vs.

The Commercial Tax Officer,
Tirunelveli Bazaar,
Commercial Taxes Building,
Reserve Lane,
Palayamkottai,
Tirunelveli-627 002. ... Respondent

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the file of the respondent in TIN:33515641622/2011-12 dated 31.05.2017 for 2011-12 and quash the same.

For Petitioner : Mr.M.Azeem

For Respondent : Mr.R.Karthikeyan
Additional Government Pleader

ORDER

The prayer in the writ petition is for issuance of a Writ of Certiorari, to call for the records on the file of the respondent in TIN:33515641622/2011-12, dated 31.05.2017 for the year 2011-12 to quash the same.

2.On 30.08.2017, this Court passed the following order:-

''*The impugned orders of assessment are liable to be stayed for the following reasons:-*

i)The Pre-Revision Notices have been issued on 16.12.2016 by the Commercial Tax Officer, Tirunelveli Bazaar, without mentioning the names of the goods purchased by the petitioner. Further, the Commercial Tax Officer, *without application of mind has mentioned that the petitioner has purchased the above said goods from the registered dealer within the State. Neither the names of the goods nor the names of the registered dealers were mentioned. Without doing so, it is not known how the Commercial Tax Officer could send a proposal, calling upon the petitioner to file objections thereon.*

ii)The petitioner sent a reply on 20.01.2017, requesting the respondent to provide the invoice-wise details of difference, if any available. Strangely, without even answering the petitioner's reply dated 20.01.2017 and without furnishing the invoice-wise details of difference, the Commercial Tax Officer has wrongly passed the impugned orders.

2.For the aforementioned reasons, the Commercial Tax Officer, Tirunelveli, is directed to appear before this Court on 08.09.2017 at 2.15 p.m to explain as to why action should not be taken against him for his act of irresponsibility.

3.The Registry is directed to list the matter on 08.09.2017 at 2.15 p.m. In the meanwhile, there shall be an order of interim stay.''

3.Pursuant to the aforesaid order, Mr.A.Ganapathi, Commercial Tax Officer, Bazzar Circle, Tirunelveli, appeared and stated that he joined the present place only on 23.08.2017 and he was unaware of the impugned order passed by his predecessor. He also submitted that the impugned order should not have been passed, however, he is prepared to withdraw the impugned order with liberty to issue fresh pre-revision notice mentioning all the particulars.

4.Placing on record the aforementioned submission made by Mr.A.Ganapathi, Commercial Tax Officer, Bazzar Circle, Tirunelveli, this Writ Petition is disposed of directing the said official to withdraw the impugned order and issue a proper pre-revision notice with all particulars. Thereafter, if there is any request from the petitioner/dealer to furnish any relevant document documents, the respondent shall comply with the same and then pass appropriate order in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To

The Commercial Tax Officer,
Tirunelveli Bazaar,
Commercial Taxes Building,
Reserve Lane,
Palayamkottai,
Tirunelveli-627 002.

+1 cc to Mr.A.Azeem , Advocate in SR.No. 77974
+1 cc to The Special Government Pleader in SR.No.78344

nbi
AE/KK/SAR3/20.09.2017/3P/4C

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