BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.(MD)No.17541 of 2017
and
W.M.P.(MD)No.14069 & 14070 of 2017

M/s. Motherland Builders,
Rep. by its Partner,
K.Johnson David,
34, Sethupathi Road,
Sundaravelpuram Main,
Tuticorin - 628 002. : Petitioner

Vs.

The Assistant Commissioner (CT) - 1,
Tuticorin. : Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings of the respondent dated 03.07.2017 and 29.08.2017 and quash the same.

For Petitioner : Mr.N.Dilip Kumar

For Respondent : Mr.R.Karthikeyan
Additional Government Pleader

O R D E R
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By the consent of both sides, the writ petition itself is taken for final disposal.

2.The present writ petition is directed against a cryptic and non-speaking order dated 29.08.2017 passed by the Assistant Commissioner (CT), Tuticorin bearing TIN No.33155822143/2014-2015.

3.When the petitioner was issued with notice dated 03.07.2017, asking the petitioner to file his objection along with relevant records within fifteen days time, the petitioner has filed his objections taking a stand that once the assessment for the year 2014-2015 is complete on 31.10.2015 under Section 22 (2) of the Act, issuance of notice on 03.07.2017, is without power and jurisdiction. Hence, the same is void-ab-initio.

4.The impugned order dated 29.08.2017, has been passed by the Assistant Commissioner (CT), Tuticorin without even dealing with the objection raised by the petitioner. Although, no reason is assigned, merely over-ruling the objection, the impugned order has been passed and it is legally unjustifiable. Moreover, a sum of Rs.21,74,295/- has been found as tax due payable by the petitioner by way of penalty at the rate of 150% of tax due under Section 27 (3) (c). Hence, the impugned order is liable to be set aside on the sole ground that it is a non-speaking and cryptic order.

5.Accordingly, the impugned order dated 29.08.2017 is set aside and the respondent is hereby directed to re-hear the petitioner after giving him an opportunity of personal hearing. The petitioner is directed to pay 10% of the tax amount within one week. Thereafter, the respondent shall issue notice to the petitioner and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. It is open to the petitioner to file a detailed additional objection within a period of one week from the date of issuance of notice.

6.The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Records)

/True Copy/

Sub-Assistant Registrar

To

The Assistant Commissioner (CT) – 1,
Tuticorin.

+One cc to The Special Government Pleader, SR.No.79587
+One cc to M/s.N.Dilipkumar, Advocate, SR.No.79374

MR/MRN
RL/4C/2P/MR/KKR/SAR2/13/10/2017

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