IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.07.2018

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

W.P.No.5550 of 2017
&
W.M.P.No. 5892 of 2017

Tvl. Madurai Meenakshi Marbles Granites,
Represented by its Prop.Mr.G. Ramachandran,
Previousaly run at No. Vivekanadhan Street,\ Irumbuiliyoor,
Thambaram, Chennai 45.
... Petitioner

Vs.

1. State of Tamil Nadu Represented by it's Secretary to Government Department of Commercial Taxes and Registration Department,
Fort St. George, Chennai - 600 009.

2. The Commissioner of Commercial Taxes
2nd Floor, Elilagam,
Chepauk,
Chennai 600 005.

3. The Assistant Commissioner (C.T)
No. 19 - A, Sivashankugam Salai, West Tambaran,
Chennai- 600 045
...Respondents

Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 3rd respondent in his TIN 33020883896/2014-15 dated 12.01.2017 Received on 09.02.2017 downloaded from the department web site on 03.08.2016 and quash the same and to direct the 3rd respondent to afford an opportunity of being heard and pass fresh orders for the assessment year 2014 - 15.

For Petitioner : Mr.M.MD.Ibrahim Ali

For Respondents : Mr.G. Dhana Madhri
Government Advocate

ORDER

Heard Mr. M.MD.Ibrahim Ali, learned counsel for the petitioner and Mr.G.Dhana Madhri, learned Government Advocate appearing for the respondents.

2. The impugned assessment order has been challenged on two grounds, namely that the petitioner was not served with the revision notice dated 27.10.2016 and secondly, that opportunity of personal hearing was not granted.

3. The learned Government Advocate vehemently contented that the revision notice was served on Mr.G.Sivakumar, who was present in the business premises of the petitioner. An assessment should be completed in a proper manner so that the correct rate of tax is recovered. Since the respondent has proposed to revise the turnover on more than one ground, one of which being based upon verification from the intranet website of the Department, an effective opportunity is required to be granted to the dealer as the dealer being confronted with materials, which are solely within the purview of the Department. Therefore, in my considered view, the assessment should be redone and unnecessarily the matter should not kept pending since the petitioner has got a benefit of an interim order in this writ petition.

In the light of the above, this writ petition is disposed of by directing the petitioner to treat the impugned Assessment Order as show-cause notice and submit their objections to the third respondent within 15 days from the date of receipt of a copy of this order and on receipt of the objections, the third respondent shall afford an opportunity of personal hearing and take an independent decision in the matter on merits and in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The State of Tamil Nadu Represented by it's Secretary to Government Department of Commercial Taxes and Registration Department, Fort St. George, Chennai - 600 009.

2. The Commissioner of Commercial Taxes
2nd Floor, Elilagam,
Chepauk,
Chennai 600 005.

3. The Assistant Commissioner (C.T)
No. 19 - A, Sivashankugam Salai, West Tambaran,
Chennai- 600 045

+1cc to Mr.M.MD.Ibrahim Ali, Advocate, S.R.No.51176
+1cc to the Special Government Pleader, S.R.No.52042

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cs/09/08/18