IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.08.2018

CORAM

THE HON'BLE MR.JUSTICE K.RAVICHANDRABABU

W.P.No.21449 of 2018
and
WMP.No.25192 of 2018

M/s.Maya Appliances Pvt. Ltd.
No.10/5, Royal Enclave,
Besant Avenue, Adyar, Chennai - 20. ...Petitioner

Vs

1.The State Tax Officer (CT),
Adyar Assessment Circle,
No.46, Greenways Road,
Chennai - 600 028.

2.The Appellate Deputy Commissioner (CT),
Chennai East (FAC),
C.T Building Annexe, 3rd Floor,
Greams Road, Chennai - 600 006.

3.The Commissioner of State Taxes,
Chepauk, Chennai - 05.

4.The Government of Tamil Nadu,
Represented through its secretary,
Department of Commercial Taxes,
Tamil Nadu Secretariat. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned order in TIN/33670964485/2012-13 dated 15.06.2018 passed by the 1st Respondent and quash the same.

For Petitioner : Mr.Raghavanramabadran

For Respondents: Ms.G.Dhana Madhri,
Government Advocate (Tax)

O R D E R

Ms.G.Dhana Madhri, learned Government Advocate (Tax) takes notice for the respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is a registered dealer and an Assessee under the respondents. The present writ petition is filed challenging the order dated 15.06.2018 passed by the first respondent under Section 84 of the Tamil Nadu Value Added Tax Act, 2006.

3. The main grievance expressed by the petitioner before this Court is that the impugned order was passed without issuing any notice to the petitioner.

4. Mr.Raghavanramabadran, learned counsel for the writ petitioner submitted that the original order of assessment in respect of the assessment year 2012-2013 itself was passed without issuing any notice of proposal to the petitioner and therefore, the present order passed under Section 84 of the TNVAT Act, even though for rectifying certain arithmetical mistake made in the original order of assessment, cannot be passed once again without issuing notice to the petitioner. However, the learned counsel fairly submitted that as against the order of assessment, the petitioner has filed a statutory appeal before the first Appellate Authority and the same is pending. It is the further contention of the learned counsel that since the Assessing Authority has passed the present impugned order rectifying some mistake in the original assessment order, the said order of assessment got merged with this present order passed under Section 84 of the TNVAT Act and therefore, the present writ petition can be entertained independently.

5. Per Contra, the learned Government Advocate (Tax) appearing for the respondents submitted that the present order of rectification of mistake is purely in relation to the arithmetical figures wrongly referred to in the order of assessment and therefore, when such mistake is sought to be rectified, issuing notice to the petitioner before making such correction is not going to alter the position. She further contended that the petitioner having chosen to file a statutory appeal as against the order of assessment, they are always at liberty to file a revision under Section 54 of the TNVAT Act, 2006, as against the present order as well.

6. Heard both sides and perused the impugned order.

7. The first respondent through the impugned order has only rectified the arithmetical figures which are wrongly stated in the original order of assessment as indicated below:

"...In the assessment order the above

amounts have been taken as Rs.2,77,07,571.00 instead of Rs.27,77,75,001.00 and as Rs.1,38,53,785.00 instead of Rs.13,88,87,501.00 each and orders passed."

8. The learned counsel for the petitioner is not disputing that the figures, which are corrected through the impugned order, were in fact wrongly stated in the original order of the assessment. When such being the admitted position, I do not think that failure to issue any notice to the petitioner before correcting such arithmetical mistake is either fatal or vitiate the proceedings, more particularly, when the petitioner has already filed the statutory appeal against the original order of assessment. If certain arithmetical figures wrongly stated originally are corrected in the present impugned order, it is always open to the petitioner to challenge this order also along with the assessment order already passed, since the present order has to be considered along with original order of assessment.

9. Therefore, without expressing any view on the merits of the matter on the assessment or the figures shown in the impugned order, this writ petition is disposed of, by granting liberty to the petitioner to workout their remedy against the present order as well in the manner known to law before the appropriate authority. It is stated that a revision alone would lie against the present order. If the petitioner choose to file any such revision, the same shall be filed within a period of two weeks from the date of receipt of a copy of this order. If any such revision is filed, such Revisional Authority shall consider the same on its own merits and in accordance with law, without reference to the period of limitation, if any, also by considering to tag such challenge along with the appeal already filed by the petitioner. The Registry is directed to return the original impugned order to the petitioner forthwith. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

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4.The Government of Tamil Nadu,
Represented through its secretary,
Department of Commercial Taxes,
Tamil Nadu Secretariat.

+1cc to Mr.Lakshmi kumaran, Advocate Sr.57538
+1cc to the Government pleader Sr.57702

W.P.No.21449 of 2018

srg 5/9/2018