IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2018

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.1171 of 2018 &
W.M.P.Nos.1457 and 1458 of 2018

M/s.Ashok Builders,
Rep. by its Partner - C.Ashok Kumar,
No.999-1A, Bharathi Nagar,
Jagir Ammapalayam,
Salem - 636 302,
Salem District .. Petitioner

vs.

Assistant Commissioner (CT)
Suramangalam Assessment Circle,
Salem, Salem District. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records on the file of the respondent in his impugned proceedings made in TIN:33442804459/2014-15 dated 26.09.2017 and the consequential order in TIN No.33442804459/2014-15 dated 24.11.2017 quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mr.S.Rajasekar
For Ms.R.Hemalatha
For Respondent : Mr.M.Hariharan
Additional Government Pleader

ORDER

Heard Mr.S.Rajasekar, learned counsel appearing for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader appearing for the respondent. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is before this Court challenging an order passed by the respondent under section 84 of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) for the Assessment year 2014-2015.

3. The learned Additional Government Pleader appearing for the respondent raised a preliminary objection with regard to the maintainability of the writ petition stating that the petitioner has filed appeals as against the assessment orders for the years 2012-2013 and 2013-2014 and in the instant case also the petitioner should be directed to file an appeal.

4. However, from paragraph 10 of the counter affidavit filed by the respondent, I find that the issue relating to construction of lands is not the subject matter of the assessment for the years 2012-2013 and 2013-2014, which are now pending before the appellate authority. The impugned assessment is for the year 2014-2015 wherein, the issue regarding construction of lands is the major issue. Therefore, any observation made in this order will have no impact on the appeals, which are pending against the assessment orders for the years 2012-2013 and 2013-2014.

5. The Court has gone through the petition filed by the petitioner under section 84 of the Act dated 06.11.2017. In the said petition, the petitioner has specifically referred to a deviation proposal sent by the Assistant Commissioner(CT), Suramangalam Circle, proposing to deviate from the observations made by the Inspecting Officials. Apart from that, the petitioner has pointed out that they have constructed only 36 flats out of total 84 flats and there cannot be any deemed sale of the flats, which are yet to be constructed.

6. I have perused the impugned order dated 24.11.2017 and I find that the reasons assigned by the respondent are not adequate. This observation is made taking note of the elaborate averments set out by the petitioner in their petition filed under section 84 of the Act dated 06.11.2017.

7. Therefore, the Court is convinced that the petition has to be reconsidered and fresh orders has to be passed. For the above reasons, the Writ Petition is allowed and the impugned order is set aside and the matter is remanded to the respondent for fresh consideration, who shall afford an opportunity of personal hearing and pass a speaking order, on merits in accordance with law, after taking note of the contentions raised by the petitioner including the deviation proposal sent by the Assistant Commissioner(CT), Suramangalam Circle. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

Rj/msv

To

The Assistant Commissioner (CT)
Suramangalam Assessment Circle,
Salem,
Salem District.

+1cc to Mr.R.Hemalatha, Advocate SR.No.34989
+1cc to The Special Government Pleader SR.No.34769

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GN(11/06/2018)