IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P. No.229 of 2018
and
W.M.P. No. 303 of 2018

M/s.K.R.S.Maligai
Rep by its Proprietor
J.Palaniappan
No.12, Azad Market
Nagapattinam - 611 001. ... Petitioner

Vs.

The Deputy Commercial Tax Officer (Main)
Nagapattinam Main Assessment Circle
Nagapattinam. ... Respondent

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, call for the records of the respondent in TIN No.33383902047/2015-2016 dated 13.10.2017 and quash the same as illegal , arbitrary and against the provisions of the Act.

For Petitioner .. Mr.K.Soundararajan

For Respondent .. Mr.G.Dhana Madhri
Government Advocate

O R D E R

Heard Mr.K.Soundararajan, learned counsel for the petitioner and Mr.G.Dhana Madhri, learned Government Advocate appearing on behalf of the respondent.

2.The petitioner has challenged the impugned assessment order on the ground of violation of principles of natural justice, in as much as the respondent refused to accept the documents which were furnished by the petitioner on 16.08.2017. The Commercial Tax Officer, Nagapattinam has given written instructions to the learned Special Government Pleader dated 12.01.2018, in which, he has emphasized that the petitioner never approached the Assessment Officer and did not give any documents and it is incorrect to state that the Assessing Officer refused to receive the same.

3.I do not propose to go into the controversy any further and it has to be seen whether the transaction done by the petitioner was duly accounted for. It is more so as the revision notice itself is based on the details culled out from the departmental website. While revising the assessment based on the details obtained from the departmental website, since there was no guiding principles to the Assessing Officer as to how he should go about for such revision of assessment, this court evolved certain principles in the case of JKM Graphics Solutions Private Limited Vs. CTO, Vepery Assessment Circle, reported in 99 VST 343.

4.Therefore, what is essentially required to be done is the conduct of an enquiry which requires production of necessary documents and if the dealer disputes the transaction as recorded /not-recorded by the other end dealer, then an enquiry is required to be done with the other end dealer by atleast obtaining information from the assessing officer of the other end dealer.

5.Thus, considering the peculiar facts and circumstances of the case, this Court is inclined to give one more opportunity to the petitioner to appear in person before the respondent and to produce all the documents and if any other documents or details are required from the petitioner, they can be called for by the respondent, after affording adequate opportunity of personal hearing to the petitioner and the petitioner shall submit its further objection and thereafter, the respondent shall complete the assessment in accordance with law.

6.In the light of the above, the writ petition stands disposed of by directing the petitioner to treat the impugned assessment order as show cause notice and submit their objection within a period of 15 days from the date of receipt of a copy of this order. If the petitioner requires any further details, they should specifically mention the same in their objections and after the information/ details are furnished to the petitioner, they can effectively defend the case, after which, the respondent shall afford a personal hearing and re-do the assessment in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

maya

To

The Deputy Commercial Tax Officer (Main)
Nagapattinam Main Assessment Circle
Nagapattinam.

+1cc to Mr.K.SOUNDARARAJAN, Advocate, S.R.No. 3430
+1cc to the Government Pleader, S.R.No. 3908

W.P. No.229 of 2018

NRI(CO)
TR(08/02/2018)