In the High Court of Judicature at Madras

Dated : 11.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.13914 of 2018 & WMP.No.16447 of 2018

Tvl.Saravana Steel, rep.
by its Proprietor ...Petitioner

Vs

The Commercial Tax Officer
(Additional), Tindivanam.
604001. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the respondent in order dated 14.3.2018 in TIN : 33654722276/12-13 and quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondent : Mr.M.Hariharan, AGP

ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondent. Heard both. In view of the glaring error, which is apparent on the face of the impugned order passed by the respondent, the writ petition itself is taken up for final disposal.

2. The petitioner has filed an appeal before the Appellate Deputy Commissioner (CT), Cuddalore challenging the assessment order dated 19.12.2014 under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the year 2012-13.

3. The Appellate Authority allowed the appeal by order dated 18.4.2017 with a pointed direction that the respondent should conduct appropriate enquiry with the other end dealer by addressing the Assessing Officer concerned in respect of the transactions relied upon for making the assessment to establish suppression, if any and proceed with fresh proceedings in accordance with law.

4. The respondent, while passing the impugned order, though took note of and referred to the order passed by the Appellate Deputy Commissioner dated 18.11.2017, conspicuously lost sight

of the direction issued to conduct appropriate enquiry with the other end dealer by addressing the concerned Assessing Officer to prove the transactions relied upon and for the purpose of ascertaining as to whether there is any suppression.

5. In fact, in paragraph 3 of the impugned assessment order, the respondent conveniently omitted to comply with the specific direction issued by the Appellate Authority and merely stated that the assessment has been remanded for a fresh consideration. Thus, the impugned order is a classic case where the respondent abdicated his statutory responsibilities and disobeyed the direction issued by the Appellate Authority, which is binding on him. These are sufficient grounds to set aside the impugned order.

6. Accordingly, the writ petition is allowed, the impugned order is set aside and the matter is remanded to the respondent with a specific direction to scrupulously follow the order passed by the Appellate Deputy Commissioner (CT) dated 18.4.2017, conduct appropriate enquiry with the other end dealer by addressing the concerned Assessing Officer, based on the material received from the concerned Assessing Officer at the other end, issue a show cause notice to the petitioner, give them an opportunity to file their objections, conduct a personal hearing and pass an appropriate order of assessment in accordance with law. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To
The Commercial Tax Officer (Additional),
Tindivanam-604001.

+1 cc to M/s.Adithya Reddy Advocate sr 36032
+1 cc to Special Pleader (Taxes) sr 36742

WP.No.13914 of 2018&
WMP.No.16447 of 2018

aa21/06/2018