In the High Court of Judicature at Madras

Dated : 26.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.15576 of 2018 & WMP.No.18495 of 2018

M/s.R.K.Agencies, rep.by its
Proprietor Mr.Mansoor ...Petitioner

Vs

The Assistant Commissioner (ST),
Pollachi Rural Assessment Circle,
Pollachi-642001. ...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 TIN 33912283747/13-14 dated 24.5.2018 and quash the same as being arbitrary, unreasonable and violative of principles of natural justice.

For Petitioner : Mr.V.Sundareswaran
For Respondent : Mr.V.Haribabu, AGP

ORDER

Mr.V.Haribabu, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has impugned the order of assessment dated 24.5.2018 under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the year 2013-14.

3. On a perusal of the impugned order, it is seen that the turnover was revised based on verification of the details from the website of the Commercial Taxes Department. Two revision notices were issued to the petitioner, to which, petitioner submitted replies dated 22.5.2015 and 15.11.2017. Along with the reply dated 15.11.2017, the petitioner enclosed Form I Annexure I and Form I Annexure II and sought for dropping the proposal.

4. One fundamental error committed by the Assessing Officer is that he has not furnished the details with regard to particulars of the selling dealers culled out from the official

website of the Department. Unless and until such details are furnished, the assessee would not be in a position to file an effective reply. Furthermore, this Court is not satisfied with the manner, in which, the assessment has been completed, as there is no finding as to why the objections given by the petitioner are not acceptable. All that the officer says is that he has carefully examined the objections, that the purchase details were taken from the website of the Tamil Nadu Commercial Taxes Department and that the dealer filed copies of Form I-1 returns for the relevant assessment year and ultimately, confirmed the proposal. In the absence of any reason in the impugned order, it has to be held to be in violation of the principles of natural justice. These are sufficient reasons to set aside the impugned order.

5. Accordingly, the writ petition is allowed, the impugned order is set aside and the matter is remanded to the respondent for a fresh consideration. The respondent is directed to furnish full particulars, which he has culled out from the website of the Commercial Taxes Department and give sufficient time to submit their objections. Thereafter, on receipt of the objections, the respondent is directed to afford an opportunity of personal hearing to the petitioner, verify the documents that may be produced and complete the assessment by passing a reasoned order on merits and in accordance with law. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To
The Assistant Commissioner (ST), Pollachi Rural Assessment Circle,
Pollachi-642001.

+1cc to Mr.V.Sundareswaran, Advocate SR.No.41055
+1cc to AGP.SR.No.41015

JP(CO)
sm:5.7.2018

WP.No.15576 of 2018&
WMP.No.18495 of 2018