IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.04.2018
CORAM
THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM
W.P.No.1587 of 2018 &
W.M.P.No.1998 of 2018

M/s.R.K.B. Roof
Rep. by the Proprietor
No.1526/1, Somavarakula Street
Tiruvannamalai .. Petitioner

vs.

Assistant Commissioner(ST)
Tiruvannamalai -II Assessment Circle
Tiruvannamalai District. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondent and quash the proceedings in TIN No.33644662481 / 2010-11 dated 23.11.2017 as illegal and barred by limitation and direct the respondent to drop all the further proceedings under TNVAT Act.

For Petitioner : Mr.C.Baktha Siromoni

For Respondent : Ms.G.Dhanamadhri
Govt. Advocate (T)

ORDER

Heard Mr.C.Baktha Sironmoni, learned counsel for the petitioner and Ms.G.Dhanamadhri, learned Government Advocate for the respondent.

2. The petitioner, who is a registered dealer on the file of the respondent, has challenged the order dated 23.11.2017, which is an assessment order under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the assessment year 2010-11 .

3. Though the petitioner contended that the main revision of assessment is barred by limitation, the said contention was given up and the petitioner sought to canvass the issue only with regard to "mismatch".

4. After receipt of the revised notice dated 10.08.2017, the petitioner sent a reply dated 25.09.2017 pointing out that without conducting any enquiry, the petitioner cannot be

penalized on the ground that there is mismatch between the details furnished in Annexure-1 and Annexure-2.

5. On a perusal of the impugned order, I find that the respondent has accepted the fact that the petitioner had filed objections on 25.09.2017 and has rejected the same in a single line stating that there is no merit in the dealer's reply. The manner in which the respondent rejected the objections of the petitioner is illegal. The respondent should have considered the objections and furnished the requisite details, conducted enquiry and then passed an order.

6. The manner in which the assessment should be completed, when there is an allegation of mismatch was considered by this court in the case of JKM Graphics Solutions Private Limited v. Commercial Tax Officer, Vepery Assessment Circle, Chennai reported in 99 VST 343 and directions have been issued. The respondent should follow the said directions and then proceed in accordance with law.

7. For the above reasons, the writ petition is allowed and the impugned order is set aside and the matter is remitted back to the respondent to follow the decision in M/s.J.K.M. Graphics Solutions Private Limited [cited supra] and proceed in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True copy//

Sub Assistant Registrar

Rj

To

The Assistant Commissioner(ST)
Tiruvannamalai -II Assessment Circle
Tiruvannamalai District.

+1cc to Special Government Pleader (Taxes) SR.No.27899

W.P.No.1587 of 2018 &
W.M.P.No.1998 of 2018

SV(CO)
GN(27/04/2018)