IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.07.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.17639 of 2018
and
W.M.P.No.20903 of 2018

M/s.Nathan Tyres
rep.by its Proprietor A.Jesudass, ... Petitioner

vs.

The Commercial Tax Officer,
Jayamkondam Assessment Circle,
Commercial Taxes Buildings,
Jayamkondam ... Respondent

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records in TIN 33433623096/2014-15 dated 13.03.2018 and quash the same as arbitrary, illegal and being contrary to the judgment of this Court reported in the case of M/s.JKM Solutions Private Limited reported in 2017(99) VST 343 (Mad) and direct the respondent to conduct an enquiry as contemplated under Section 27 of the TNVAT Act, 2006 and pass a assessment order afresh in the light of the guidelines enunciated in the batch of writ petitions including the opportunity of personal hearing within such time as may be directed by this Court.

For Petitioner : Mr.A.Thiyagarajan,Sr.counsel for Mr.S.Karunakar

For Respondent :Mr.V.Hari Babu,A.G.P.

ORDER

Heard Mr.A.Thiyagarajan, the learned Senior counsel for the petitioner and Mr.V.Hari Babu, learned Additional Government Pleader, who accepts notice on behalf of the respondent and with the consent of either parties, the writ petition itself is taken up for final disposal.

2.The petitioner is aggrieved by the Assessment Order in so far as it levies penalty. Admittedly, the tax has been paid much prior to the enunciation of proceedings for revision of assessment. Apart from that, the revision of assessment itself has been made without following the directions issued by this Court in JKM Graphics Solutions Private Limited Vs. CTO, Vepery Assessment Circle [reported in (2017) 99 VST 343]. Thus, taking note of the said conduct of the respondent, it is not a case where penalty should have been levied on the petitioner. In any event, the respondent has not furnished the details of the mismatch alleged against the petitioner and therefore, the matter is remanded back to the respondent for fresh consideration.

3.Accordingly, the writ petition is allowed and the impugned order is set aside. The respondent is directed to furnish the full details regarding the mismatch alleged against the petitioner and on furnishing the details, the petitioner should be granted reasonable time to submit their objections, after which, an opportunity of personal hearing should be provided and the assessment should be re-done, in accordance with law. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer,
Jayamkondam Assessment Circle,
Commercial Taxes Buildings,
Jayamkondam

+1cc to Mr.S.Karunakar, Advocate, S.R.No.46357

+1cc to the Spl Government Pleader, S.R.No.46632

W.P.No.17639 of 2018

SS(CO)
GSP(26/07/2018)