In the High Court of Judicature at Madras

Dated : 25.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.18943 of 2018 & WMP.No.22344 of 2018

Tvl.Senthur Velavan & Co., rep.
by its Partner P.Jegannathan ...Petitioner

Vs

The State Tax Officer, Kangeyam
Assessment Circle, Kangeyam. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the files of the respondent in TIN : 33213082733/2013-14 dated 30.5.2018 and quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondent : Mr.M.Hariharan, AGP

ORDER

Mr.M.Hariharan, 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 challenged the order passed by the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the year 2013-14.

3. The impugned order has been passed on the ground that the petitioner did not respond to the revision notice dated 18.4.2018 and an opportunity of personal hearing granted by the respondent on 26.4.2018.

4. It is seen that the Assessing Officer is a law graduate and therefore, with a view to ensure that principles of natural justice are complied with, while issuing the notice, he also fixed a date for personal hearing. In spite of such a fair approach taken by the respondent, the petitioner did not appear before the respondent nor sought for time for filing a reply.

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5. The learned counsel for the petitioner would submit that the petitioner is a civil contractor doing business only for the Tamil Nadu Water Supply and Drainage Board and in respect of the payments given to the petitioner by the Board, tax has been deducted at source and in this regard, a certificate of deduction of tax at source in Form T has been issued by the Executive Engineer of the Board dated 07.8.2014.

6. Though the petitioner claims that they have requisite certificate, they did not produce the said certificate before the respondent on receipt of the notice dated 18.4.2018. Therefore, the respondent cannot be blamed for completing the assessment in the manner done in the impugned order.

7. The learned Additional Government Pleader has vehemently contended that the impugned order has been validly passed and if at all the petitioner is aggrieved, they have to file an appeal before the Appellate Deputy Commissioner of Commercial Taxes, Salem.

8. Taking into consideration the facts and circumstances of the case and also the fact that the petitioner is a civil contractor registered with the Government Department and since the petitioner states that tax has already been deducted at source and that they are in possession of Form T declaration, this Court is inclined to grant one opportunity to the petitioner to go before the Assessing Officer.

9. Accordingly, the writ petition is disposed of by directing the petitioner to treat the impugned proceedings as a show cause notice and file their objections along with Form T declaration within a period of two weeks from the date of receipt of a copy of this order. On receipt of the objections along with Form T declaration, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CS-IX)

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Sub Assistant Registrar

RS

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To
The State Tax Officer,
Kangeyam Assessment Circle, Kangeyam.

+1cc to Mr.R.SENNIAPPAN, Advocate, S.R.No. 50866

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WMP.No.22344 of 2018

KAN(CO)
TR(11/08/2018)

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