IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.8.2018
CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NO.19662 OF 2018 &
WMP.NOS.23097 & 23098 OF 2018

Tvl.S.Karuppusamy ...Petitioner

Vs

The Assistant Commissioner (ST),
Pollachi Rural Assessment Circle,
Pollachi, Coimbatore District. ...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 his proceedings in TIN 33122281611/2013-14 dated 14.5.2018 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan
For Respondent : Mrs.G.Dhana Madhri, GA

ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner, which is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, is dealing in cereals like cholam, maize, ragi, etc.

3. The respondent issued the notice dated 01.11.2017 proposing to revise the turnover for the assessment year 2013-14 under the provisions of the said Act. The reason for proposing to revise the turnover was based on verification of annual returns of the dealer in Form I along with Annexure II of the selling dealer. Thus, the basis for revising the turnover is the information collected by the respondent from the official website of the Tamil Nadu Commercial Taxes Department.

4. The petitioner submitted their reply dated NIL denying the allegations in the said notice dated 01.11.2017. However, the respondent, without affording an opportunity of personal hearing, completed the assessment and passed the impugned order.

5. On a perusal of the impugned order, this Court finds that the respondent has not considered the objections given by the petitioner in a proper perspective. The impugned order is vitiated on the ground of non application of mind and is devoid of reasons. All that the respondent states is that the objections filed by the dealer were carefully examined, that the purchase details were taken from the official website of the Tamil Nadu Commercial Taxes Department and that the dealer did not file the copy of annual Form I-returns for the year 2013-14. The impugned order is a classic example as to how the assessment should not be completed. The respondent, as an Assessing Officer, abdicated his statutory duties and without due application of mind, passed the impugned order and for all the above reasons, the impugned order is held to be illegal and unsustainable in law.

6. Accordingly, the writ petition is allowed, the impugned order is set aside and the matter is remanded to the respondent for a fresh consideration. Since the turnover is sought to be revised based on the information culled out from the official website of the Tamil Nadu Commercial Taxes Department, the respondent is directed to furnish the invoice-wise details to the petitioner, after which, the petitioner shall be granted 15 days' time to submit their objections. On receipt of the objections, the respondent shall consider the same and if any further clarification is required, call for such clarification, peruse the documents that the petitioner may produce and redo the assessment on merits and in accordance with law by passing a speaking order. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

RS
To
The Assistant Commissioner (ST),
Pollachi Rural Assessment Circle,
Pollachi, Coimbatore District.

+1cc to Mr.S.Ramanathan, Advocate, S.R.No.52611
+1cc to the Special Government Pleader(T), S.R.No.52530

WP.No.19662 of 2018 & WMP.
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SKV(CO)
CS/21/08/18