IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2018

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.25974 of 2013 &

M.P.No.1 of 2013

M/s.Sakthi Scanners Pvt. Ltd.
Rep. by its Director E.Banumathi
8/18, 3rd Street, Gopalapuram
Chennai - 600 086 .. Petitioner

v.

The Commercial Tax Officer
Royapettah I Assessment Circle
46, Greenways Road
Chennai - 28. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the respondent in his proceedings in TIN No.33310721213/2011-12, dated 31.05.2013 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan

For Respondents : Ms.G.Dhanamadhri, Government Advocate

ORDER

Heard Mr.S.Ramanathan learned counsel appearing for the petitioner and Ms.G.Dhanamadhri,, learned Government Advocate, appearing for the respondent.

2. The petitioner has filed this writ petition challenging the assessment order dated 31.05.2013 under the provisions of Tamil Nadu Value Added Tax Act, 2006.

3. On a reading of the impugned order, it is seen that no reasons have been assigned as to why the respondent partially accepted the plea raised by the petitioner and reduced the Reversal of Input Tax Credit from Rs.4,09,917/- to Rs.2,31,423/-. The respondent having called for objection and the petitioner having submitted their objection dated 18.03.2013, the respondent should have given reasons as to why he has confirmed the proposal of Reversal of Input Tax Credit

to the extent of Rs.2,31,423/-. In the absence of any reason, the impugned order has to be held to be in violation of principles of natural justices.

4. The second error committed by the respondent is with regard to allegation of purchase suppression. Admittedly, this allegation was based on the figures culled out from the audited balance sheet of the petitioner for the year 2011-12, which was submitted by the petitioner in response to the notice dated 15.10.2012. Thus, if the respondent, based on the figures mentioned in the audited balance sheet, proposes to levy tax on the ground of purchase suppression, then, the respondent should have issued a show cause notice. Therefore, on this ground also the impugned proceedings are in violation of principles of natural justice.

5. For the above reasons, the writ petition is allowed, the impugned order is set side and the matter is remitted back to the respondent for fresh consideration. The respondent shall issue fresh show cause notice clearly indicating as to how they proposes to revise the turnover and deny the Input tax Credit availed by the petitioner. The respondent should grant the petitioner sufficient time to submit their objections and and on receipt of the objections, the respondent shall fix a date for personal hearing and redo the assessment, in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

Rj
To

The Commercial Tax Officer
Royapettah I Assessment Circle
46, Greenways Road
Chennai - 28.

+1cc to Mr.S.RAMANATHAN, Advocate, S.R.No.35592
+1cc to the Government Pleader, S.R.No.35963

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RJ(CO)
TR(21/06/2018)