IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.12.2018

CORAM:
THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.32769 of 2018
and
WMP.No.37979 of 2018

M/s.Veeri Chettiar Traders,
Represented by its Proprietor C.Natarajan,
108, Venkatesapuram,
Perambalur - 621212. ...Petitioner

Vs

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

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in TIN No.33523603307/2013-2014 dated 14.03.2018 issued by the respondent and quash the same is wholly without jurisdiction and direct the respondent to conduct an enquiry with other end dealers as contemplated under Section 27 of the TNVAT Act 2006 by considering the reply dated 21.02.2018 filed by the petitioner and pass a assessment order afresh in the light of the guidelines enunciated in the batch of Writ Petitions in the case of M/s.JKM Solutions Private Limited reported in 2017(99) VST 343 (Mad) including the opportunity of personal hearing within such time as may be directed by this Court.

For Petitioner : Mr.A.Thiagarajan
Standing Counsel

For Respondents: Mr.V.Haribabu
Additional Government Pleader (Tax)



O R D E R

Mr.V.Haribabu, learned Additional Government Pleader takes notice for the respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the order of assessment dated 14.03.2018 passed in respect of assessment year 2013-2014.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

4. The main grievance of the petitioner is in twofold. Firstly, it is contended that the impugned order of assessment cannot be made against the petitioner firm, which has already closed the business in the year 2012 itself and the registration of the firm was also cancelled as early as on 30.03.2012. Thus, it is contended that an individual, who is running the business viz., C.Natarajan, ought to have been given the notice of proposal and thereafter, the assessment order should have been passed in his individual name, since he got separate TIN number. Secondly, it is contended that the only issue dealt with by the Assessing Officer viz., mis-match issue has not been handled by following the procedures/guidelines issued by this Court in JKM Graphics Solutions Vs. CTO, ([2017] 99 VST 343) and therefore, on that ground also, the matter has to go batck to the Assessing Officer for re-doing the assessment.

5. Perusal of the materials placed before this Court indicates that the registration of the petitioner firm was cancelled on 30.03.2012, which itself would show that the very notice of proposal issued in the name of the petitioner firm, cannot be sustained. Even otherwise, when the said fact was brought to the notice of the Assessing Officer through the reply of the said C.Natarajan on 21.02.2018, the Assessing Officer should have proceeded afresh by issuing the notice on the said C.Natarajan. Instead, he has chosen to pass the impugned order of assessment in the name of the petitioner firm itself which does not exist after 30.03.2012. In any event, as the mis-match has to be dealt with and the assessment order has to be passed only by following the procedures/guidelines issued in JKM Graphics Solutions Vs. CTO, ([2017] 99 VST 343), this Court is convinced to set aside the impugned order and remit the matter back to the Assessing Officer for re-doing the assessment from the stage of issuing notice of proposal to the appropriate dealer. Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the Assessing Officer to re-do the assessment from the stage of issuing notice of proposal to the petitioner, also by following the procedures/guidelines issued in JKM Graphics Solutions Vs. CTO, ([2017] 99 VST 343). Such exercise shall be done by the respondent within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mk

To

The Commercial Tax Officer,
Ariyalur Assessment Circle,
Commercial Taxes Buildings, Ariyalur.

+1cc to Mr.S.Karunagar, Advocate, S.R.No.85808
+1cc to the Government Pleader, S.R.No.87098

W.P.No.32769 of 2018

CP(CO)

rrs 23/01/2019