BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 19.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1597 of 2018 and
WMP(MD)No.1687 of 2018

M/s.Sri Vinayaga Medical Agencies,
Represented by its Partner S.Suresh Kumar,
No.27/9, Palani Complex 1st Floor,
Kannupillai Street,
Karaikudi. ... Petitioner

Vs.

The Commercial Tax Officer (FAC),
Karaikudi. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records in TIN 33375482037/2014-15 dated 08.06.2017 and ப.ச.No.33375482037 (2014-15) dated 26.09.2017 and quash the both as arbitrary, illegal and against the principles of natural justice and direct the respondent to furnish the copies of the records as relied by the respondent in his notice dated 05.06.2017 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.

For Petitioner : Mr.S.Karunakar
For Respondent : Mrs.S.Srimathy
Special Government Pleader

O R D E R

Mrs.S.Srimathy takes notice for the respondent. By consent of both parties, the main writ petition is taken up for final disposal at the stage of admission itself.

2. Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for respondent.

3. The petitioner is an assessee registered with the

respondent. In respect of the assessment year 2014-2015, action was initiated under Section 27 of Tamil Nadu Value Added Tax Act, 2006. Pre-revision notice dated 05.06.2017 was issued. The petitioner submitted his objection.

4. The grievance of the petitioner is that since this is a case of mis-match, it was for the department to gather the details from the other-end dealer and furnish the same to the petitioner, so that the petitioner can effectively meet them. In this case even though the onus is on the respondent, the respondent had been calling upon the petitioner to furnish the relevant details. The respondent has also not furnished a copy of the Web Report on which reliance is placed. Therefore, passing of the final order is vitiated on these two grounds.

5. In this view of the matter, the order impugned in this writ petition is quashed and the matter is remitted to the file of the respondent. The respondent shall furnish a copy of the Web report and also all the details relating to the mis-match transactions pertaining to the other-end dealer to the petitioner, so that the petitioner will be able to meet the same effectively. After compliance of principles of natural justice in the manner indicated above, it is always open to the respondent to pass fresh order in accordance with law.

6. With these observations and liberty, this writ petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Commercial Tax Officer (FAC),
Karaikudi.

+ 1 CC TO Mr.S.KARUNAKAR, ADVOCATE IN SR No. 49691
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 49803

KMI/RMK
TE/RSK/SAR-4 : 10/05/2018 : 2P/4C