BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.02.2018
CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No. 2074 of 2018
and
M.P.(MD)No.2327 of 2018

M/s. A.M.A. Automobiles,
represented by its Proprietor Amirulmuminin, ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Thiruppathur Assessment Circle,
Sivagangai District. ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in TIN 33265500770/2014-15 dated 30.10.2015 and quash the same 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 30.04.2015 and pass an 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.S.Karunakar
For Respondent : Mr.K.Saravanan
Government Advocate

O R D E R

Heard counsel on either side.

2. The petitioner is an assessee with the respondent. In respect of the assessment year 2014-2015, pre-revision notice was issued. Eventhough, the petitioner herein received the notice, the petitioner failed to lodge his objections / explanations. Therefore the respondent was left with no other option but to pass a final order dated 30.10.2015. The said order is questioned after a gap of more than two years.

3. The principal ground taken by the learned counsel for the petitioner is that, he took out an application under section 84 of TNVAT Act, 2006. A copy of the said application dated 28.11.2017 is enclosed in the typed set of papers. It was also duly acknowledged by the respondent. Till date no orders has been passed thereon. The

second contention raised by the learned counsel for the petitioner is that the approach adopted by the respondent is not in conformity with the principles set out in M/s.JKM Solutions Private Limited Case. Finding some force in the contention raised by the learned counsel for the petitioner, this Court directs the respondent that impugned order shall be treated as a notice. But this petitioner have to be put on terms. The petitioner shall remit 15% of the disputed tax amount within two weeks from today. The matter is remitted to the file of the respondent. The respondent shall pass orders afresh in accordance with law after affording an opportunity to the petitioner and making available the documents relied on by the respondent.

4. This writ petition is allowed as indicated above. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar(CS-II)

To:

The Deputy Commercial Tax Officer,
Thiruppathur Assessment Circle,
Sivagangai District.

+1cc to M/S.S.Karunakar, Advocate SR.No. 48212

ORDER MADE IN
W.P. (MD) No. 2074 of 2018
12.02.2018

pnn
JM/SKN RSK/SAR 2/01.08.2018/2P/3C