BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 19.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.2645 to 2652 of 2018
and
W.M.P(MD).Nos.2834 to 2841 of 2018

W.P(MD)Nos.2645 of 2018

M/s.Sathya Shree Developers,
Represented by its Managing Director R.Durga Ram,
No.466 & 467 A.R.Complex,
80, Feet Road, Anna Nagar, Madurai.
... Petitioner in all Writ petitions

Vs.

1.The Additional Chief Secretary/
Commissioner of Commercial Taxes,
Chepauk, Chennai-600005.

2.The Joint Commissioner (CT),
Office of the Joint Commissioner of Commercial Taxes,
Madurai Division,
Madurai.

3.The Commercial Tax Officer,
Tallakulam Assessment Circle,
Madurai. ... Respondents in all Writ petitions

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the third respondent in TIN 33234883139/2007-08,33234883139/2008-09,33234883139/2009-10, 33234883139/2010-11,33234883139/2011-12,33234883139/2012-13, 33234883139/2013-14,33234883139/2014-15, dated 09.02.2017 and to quash the same as illegal, arbitrary, in violation of the principles of natural justice, and direct the respondent to pass assessment order afresh after affording an opportunity of being heard to the petitioner by considering the reply and records dated 19.05.2017 filed by the petitioner and the circular issued by the Commissioner of Commercial Taxes, Chennai in Circular No.54/2014 Ref No.D3/34875/2014 dated 14.11.2014 and Letter No.D3/7001/2017 dated 10.04.2017 issued by the first respondent within such time as may be directed by this Court.

For Petitioner : Mr.S.Karunakar
(in all the writ petitions)

For Respondents : Mrs.S.Srimathy
Special Government Pleader
(in all the writ petitions)

COMMON ORDER

Heard the learned counsel appearing for the petitioners in all the writ petitions and the learned Additional Government Pleader appearing for respondents in all the writ petitions.

2. The petitioner in all the writ petitions is an assessee registered with the third respondent herein. In respect of certain concluded assessments on deemed basis, action was initiated under Section 27 of Tamil Nadu Value Added Tax Act, 2006. Pre-revision notices were issued under Section 22 (2) of the Act. The petitioner herein is responded by producing the relevant records. But without perusal or appreciation of the material contained therein, the third respondent proceeded to pass the orders impugned in these writ petitions. Contending that the records produced by him were not even looked into, the petitioner moved the first respondent. The first respondent by communication dated 10.04.2017, called upon the third respondent to re-examine the relevant records and act as per provisions of law. The first respondent also noted the grievance expressed by the petitioner that without verification of books of accounts, the third respondent had adopted the sale value on the basis of prorata basis.

3. Pursuant to the communication dated 10.04.2017 issued by the first respondent, the third respondent also issued notice, dated 18.04.2017. The petitioner appeared for enquiry on 08.05.2017 and placed his objections. The petitioner once again placed the entire books of account for consideration of the third respondent. But probably in view of the earlier final orders passed, the third respondent has not chosen to pass a fresh order. Inview of inaction or rather inability on the part of the third respondent to pass fresh orders pursuant to the communication of the first respondent dated 10.04.2017, the petitioner has been constrained to file this batch of writ petitions.

4. This Court is able to note that the orders impugned in these writ petitions have been passed without perusal of the books of account furnished by the petitioners herein. That is why the first respondent was also impelled to call upon the third respondent to re-examine the issue afresh.

5. In this view of the matter, the orders impugned in these writ petitions are set aside. The matter is remitted to the file of the third respondent. Since already the petitioner has been heard and records have also been perused, the third respondent is directed to pass fresh orders in accordance with law.

6. With this direction, these writ petitions stand allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

1.The Additional Chief Secretary,
Commissioner of Commercial Taxes,
Chepauk, Chennai-600005.

2.The Joint Commissioner (CT),
Office of the Joint Commissioner of Commercial Taxes,
Madurai Division,
Madurai.

3.The Commercial Tax Officer,
Tallakulam Assessment Circle,
Madurai.

+8cc to Mr.S.Karunakar, Advocate, SR.No.49683, 49684, 49685, 49686, 49687, 49688,49689, 49690.

+1cc to Special Government Pleader, SR.No.49799.

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rmk/kmi

RAM/SV MMS/SAR 2/04.06.2018/3P/13C