BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.03.2018
CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD)Nos.6013 & 6014 of 2018
and
WMP(MD)Nos.5882 & 5883 of 2018

M/s.ARK Builders & Promoters Pvt Limited,
Rep.by its Managing Director S.R.Sivakumar Doss,
6/9, 1st Cross Street, Maharajanagar,
Tirunelveli. ... Petitioner in both writ petitions

Vs.

The Commercial Tax Officer,
Palayamkottai Assessment Circle,
Commercial Tax Buildings,
Palayamkottai, Tirunelveli. ... Respondent in both writ petitions

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the file of the respondent in TIN 33155565869/2010-11 and 33155565869/2011-12 dated 25.11.2016 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 records of 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 within such time as may be directed by this Court.

For petitioner in both writ petitions : Mr.S. Karunakar

For respondent in both writ petitions : Mrs.S.Srimathy, Spl., Govt.Pleader

COMMON ORDER

Mrs.S.Srimathy, learned Special Government Pleader takes notice for the respondent. By consent of both parties, these writ petitions are taken up for disposal at the admission stage itself.

2.The petitioner in both writ petitions is one and the same. He is an assessee with the respondent. The respondent initiated action under Section 27 of the Tamil Nadu Value Added Tax Act, 2006 for reopening the concluded assessments. The petitioner was issued with notice. The petitioner omitted to respond in time. As a result, the final orders came to be passed in November 2016. These are assailed in these writ petitions.

3.The learned counsel appearing for the petitioners submits that returns were filed by the petitioners. Even though they were very much available on record, they were not taken into account while passing the final orders. He would submit on instruction from the petitioner that he shall remit a sum of Rs.2.00 lakhs on or before 28.03.2018 towards the portion of the disputed tax liability.

4.In view of the aforesaid undertaking given by the petitioner, the orders impugned in these writ petitions are quashed and the matter is remitted to the file of the respondent to pass orders afresh in accordance with law after affording an opportunity of personal hearing to the petitioner. It is made clear that if the petitioner fails to remit the sum of Rs.2,00,000/-on or before 28.03.2018 as undertaken by him before this Court, the order allowing these writ petitions would stand automatically recalled. It is also made clear that the said amount of Rs.2,00,000/- would cover both cases.

5.These writ petitions are allowed on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub-Assistant Registrar

To
The Commercial Tax Officer,
Palayamkottai Assessment Circle,
Commercial Tax Buildings,
Palayamkottai, Tirunelveli.
+2ccs to M/s.S.Karunakar, Advocate, SR.Nos.57508 and 57509
+1cc to The Special Government Pleader, SR.No.57331

SKM
RL/5C/2P/SV/MMS/SAR2/20/4/2018

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