BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.10204 of 2015
and
MP(MD)No.1 of 2015

M/s.Trimax Umbrella Private Limited,
Represented by its Director,
GEORGE THAYYIL ... Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
O/o,.The Principal and Special Commissioner
of Commercial Taxes, Ezhilagam,
Chepauk, Chennai - 600 005.

2.The Commercial Tax Officer,
Shencottah-(C), Assessment Circle,
Commercial Tax Office,
No.126, Main Road, Shengottah,
Thirunelveli District - 627 809. ...
Respondents

Prayer : This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the second respondent in CST/526823/2010-11 dated 31.03.2015 and quash the same and to consequently direct the second respondent to re-do the assessment afresh after giving adequate opportunity to the petitioner.

For Petitioner : Mr.B.Rooban
For Respondents : Mr.Aayiram K.Selvakumar
Additional Government Pleader

ORDER

The petitioner is an assessee registered with the second respondent. The petitioner was issued with a pre-revision notice on 27.11.2014. The petitioner submitted his reply on 09.12.2014. Thereafter, on two occasions, the petitioner submitted F-forms. The second set was submitted on 02.02.2015. In fact, there is an acknowledgment from the office of the second respondent. But, while passing the final order on 31.03.2015, the receipt of the F-form submitted on 02.02.2015 was not taken note of.

2.On this sole ground, I am inclined to interfere with the order impugned in this writ petition. The Assessing Officer submits that instead of submitting monthly forms, the assessee chose to submit quarterly forms. If that be so, as per the decision of the Hon'ble Allahabad High Court reported in (2014) 73 VST 295(AII) (Vaibhav Edibles Pvt.Ltd vs. State of U.P and others), the authority must have returned the forms then and there to enable the assessee to rectify the defects. Such a course of action was not taken.

3.Therefore, the order impugned in this writ petition is set aside and the matter is remitted to the file of the second respondent to pass orders afresh in accordance with law. This writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar()

/True Copy/

Sub Assistant Registrar(CS-I)

To

1.The Commissioner of Commercial Taxes,
O/o,.The Principal and Special Commissioner
of Commercial Taxes, Ezhilagam,
Chepauk, Chennai - 600 005.

2.The Commercial Tax Officer,
Shencottah-(C), Assessment Circle,
Commercial Tax Office,
No.126, Main Road, Shengottai,
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+1cc to Special Government Pleader Advocate in SR.No.98033

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