BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 08.06.2018
CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD)No.206 of 2015
and
M.P(MD)No.1 of 2015

M.S.Imam Ali,
Proprietor,
M/s.Ruby Steels,
No.3642, Nallakeani Street,
Batlagundu Road,
K.Paraipatty,
Begampur Post,
Dindigul - 624 002. ... Petitioner

Vs.

1. The Commissioner of Commercial Taxes,
   Office of the Principal and Special Commissioner of Commercial Taxes,
   Ezhilagam,
   Chepauk,
   Chennai - 600 005.

2. The Assistant Commissioner (CT) - III,
   Commercial Tax Building,
   Sub-Collector's Office Road,
   Dindigul - 624 001. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the second respondent in TIN:33735241473/2011-12, dated 07.11.2014 and quash the same and 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.A.Muthukaruppan,
Additional Government Pleader

ORDER

The respondent issued notice for reversing the Input Tax Credit claim in respect of a particular seller. In the said notice, the Input Tax Credit claim for the year 2011-2012 to the tune of Rs.1,11,854/- (Rupees One Lakh Eleven Thousand Eight Hundred and Fifty Four only) was quoted and objections were called for. While passing final orders, the respondent relying on web report, has reversed the Input Tax Credit to the tune of Rs.4,07,157/- (Rupees Four Lakhs Seven Thousand One Hundred and Fifty Seven only).

2. It is well settled by various judgments that whenever the additional details are collected and new proposals are made, it is incumbent on the authority to withdraw the previous revision notice and issue fresh revision notice incorporating all the details and call for objections. Issuing notice to one proposal and deciding several other proposals while passing final orders, is certainly violative of principles of natural justice. The dealer concerned would be deprived of taking a defence in respect of additional proposals considered by the assessing authority.

3. In the instant case also, the assessing authority has considered around twelve transactions without putting the petitioner on notice and without furnishing the details obtained from the web portal.

4. In such circumstances, I have no hesitation to set aside the impugned proceedings in TIN:33735241473/2011-12, dated 07.11.2014 and hence, the same is set aside. Accordingly, the matter is remitted back to the respondent to issue a new proposal incorporating all the transactions along with the details procured from the web portal, both dealer wise as well as invoice wise and call for objections from the petitioner and decide the matter after affording an opportunity of personal hearing to the petitioner, within a period of two months from the date of receipt of the objections from the petitioner.

5. In the result, this writ petition is disposed of as above. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To
1. The Commissioner of Commercial Taxes,
Office of the Principal and Special Commissioner of Commercial Taxes,
Ezhilagam,
Chepauk,
Chennai - 600 005.

2. The Assistant Commissioner (CT) - III,
Commercial Tax Building,
Sub-Collector's Office Road,
Dindigul - 624 001.

+1cc to SPECIAL GOVERNEMNT PLEADER, Sr.No.67596
Rsb
MK/SB/SAR 4/28.06.2018/3P/4C

W.P(MD)No.206 of 2015
and
M.P(MD)No.1 of 2015
08.06.2018