BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 31.07.2018
CORAM:
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ
Writ Petition(MD)Nos.15881 to 15885 of 2018
and
W.M.P.(MD).Nos.14212 to 14216 of 2018

M/s. Sri Ganapathy Murugan & Company,
represented by its Proprietrix
R.Kalaiyarasi,
No.99, Thalavapalayam,
Pugalur Post,
Karur.

... Petitioner in all W.Ps.

Vs.

The Commercial Tax Officer,
Karur (East) Assessment Circle,
Commercial Taxes Buildings,
Karur. ... Respondents in all W.Ps.

Common Prayer: These Writ Petitions are filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the respondent in TIN No.338437667061/2012-13, 2013-14, 2014-15, 2015-16 and 2016-17 dated 27.02.2018 issued by the respondent and quash the same as arbitrary, illegal, without jurisdiction, clear violation of the circular issued by the respondent in Circular No.29/2015 D3/22678/2015, dated 11.08.2015 and against the judgment of Hon'ble Apex Court in the case of M/s. Southern Motors v. State of Karnataka reported in (2017) 3 SCC 467 and direct the respondent to furnish the records relied in the notice dated 23.10.2017 and conduct an enquiry as contemplated under Section 27 of the TNVAT Act 2006 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.

For Petitioner : Mr.S.Karunakar
For Respondent : Mr.A.Muthu Karuppan
Additional Government Pleader

C O M M O N O R D E R

Pursuant to the surprise inspection conducted by the Enforcement Wing Officials, on 07.04.2017, in the business place of the petitioner, pre-revision notices were issued by the respondent on 19.07.2017 and 29.01.2018. The petitioner did not file his objection for want of details and also did not appear for personal hearing before the respondent. Therefore, the Assessing Officer has confirmed the proposals. Now, the petitioner is before this Court on the ground that the details of Annexure - I and Annexure- II were not supplied to him, enabling him to file an objection. Admittedly, there is a variation in the turn over with reference to Annexure - I and Annexure - II. The authority, in the cases, where they find a difference in tax turn over, shall provide the documents which are relied on by them to the Dealer. In the instant case, these documents were not supplied to him.

2. Therefore, without going into the merits of the case, the order passed by the respondent is liable to be set aside only on the ground of non-furnishing of materials relied on by the Assessing Authority before calling for objection. Further, it is also seen that the purchase omission was secured from the web - report of the Department. It is well settled that the details which are relied on by the respondent should be supplied to the Dealers, while calling for his objections. In the instant case, admittedly, the materials relied on by the respondent were not furnished to the petitioner for the purpose of effectively filing his objection. Insofar as the non-furnishing is concerned, as observed above, it is a violation of principles of natural justice. Therefore, the impugned order passed by the respondent, dated 27.02.2018, is set aside and the matter is remitted back to the respondent. The respondent is directed to provide all the materials with regard to the purchase omission, sales suppression etc., to the petitioner and call for objection. Thereafter, pass orders on merits and in accordance with law, after giving an opportunity of personal hearing to the petitioner.

3. These writ petitions are disposed of, with the above directions. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-III)

To
The Commercial Tax Officer,
Karur (East) Assessment Circle,
Commercial Taxes Buildings,
Karur.

+1cc to The Spl. Government Pleader Sr.No.76181

AKV
VB/KAK/SAR3/13.08.2018/2P/3C