WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.(MD)No.8763 of 2015
and
M.P.(MD)No.1 of 2015

Tvl.Hifi Mobiles,
Rep. by its Proprietor,
R.Ramprabhu : Petitioner

Vs.

The Deputy Commercial Tax Officer,
Thanjavur - II Assessment Circle,
Thanjavur. : Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records on the files of the respondent herein in TIN 33863825347/12-13, dated 27.04.2015 and quash the same as illegal, invalid and violative of the principles of natural justice.

For Petitioner : Mr.A.Chandrasekaran

For Respondent : Mrs.J.Padmavathi Devi,
Special Government Pleader

ORDER

The petitioner is a dealer in Mobile Phones and he filed returns for the assessment year 2012-2013 under the Tamil Nadu Value Added Tax Act, 2006. The respondent issued a revision notice dated 27.3.2015 calling for objections, within fifteen days from the date of receipt of notice. Notice was served on the petitioner on 06.04.2015 and he filed his objections on 13.04.2015. However, a final order came to be passed on 27.04.2015 without setting out any reason for passing such an order. Aggrieved over the order, the petitioner is before this Court.

https://hcservices.ecourts.gov.in/hcservices/

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondent.

WEB COPY

3. On a simple perusal of the impugned order, it is seen that the revision was ordered on the basis of the details obtained from web report on certain escaped turnovers. In the final order passed, a vague statement is made, the meaning of which is not understandable to this Court. The order reads as under:

> **"Penalty also be leviable 150% u/s 27(3) of TN VAT Act 2006 for the year of 2012-13. A notice containing the above defect was sent to the dealer on 27.03.2015. But the dealer have filed objection for 7 days to the notice, hence the dealer was assessed for the year 2012-2013 u/s 27(1) and 27 (3) of TNVAT Act 2006 as below.**

4. But, what is clear in the order is that the defects were found from the details obtained from web report. In the cases of mismatch on the basis of the details obtained from web report, it is incumbent on the Assessing Officer to enquire with the other end dealers and ascertain the correctness of the transaction made by the dealer and the returns filed by him. Without conducting an enquiry, simply, on the basis of the web report, a proposal cannot be sent without application of mind. In the instant case, no such application of mind appears to have been made by the Assessing Officer nor such proposal is made. Further, while passing final orders, objections raised by the dealer should have been considered, discussed and a reasoned order should have been passed. But, in the instant case, none of the settled procedures have been followed. The order came to be passed in violation of principles laid down by this Court in **M/s.JKM Graphics Solutions Private Limited Vs. Commercial Tax Officer, Vepery Assessment Circle, Chennai [2017(99) VST 343]** and also in violation of principles of natural justice. A vague and non-speaking order has been passed by the respondent. In such circumstances, the impugned order does not stand the test of law and accordingly, it is set aside and the matter is remanded back to the respondent for fresh consideration in compliance with the principles laid down in **M/s.JKM Graphics Solutions Private Limited Vs. Commercial Tax Officer, Vepery Assessment Circle, Chennai [2017(99) VST 343]** and also in compliance with the principles of natural justice. The respondent is directed to pass a reasoned order after affording an opportunity of personal hearing to the petitioner, within a period of one month from the date of receipt of a copy of this order.

5. In the result, the Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (RTI)

https://hcservices.ecourts.gov.in/hcservices/

/True Copy/

Sub Assistant Registrar(CS-III)

WEB COPY

To

The Deputy Commercial Tax officer,
Thanjavur - II Assessment Circle,
Thanjavur.

+ 1 CC TO Mr.G.KARNAN, ADVOCATE IN SR No. 72449
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 72649

SML
TE/RP/SAR-3 : 26/07/2018 : 3P/4C

Order made in
W.P.(MD)No.8763 of 2015
11.07.2018