BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 30.07.2018
CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.(MD)No.16784 of 2018
and
W.M.P.(MD).No.14844 of 2018

TvI.Rose Flower Company (Papers) (P) Ltd.,
rep. by Assistant General Manager,
Dhanasekaran R.Naidu,
175, Chairman PKSA.Arumugam Road,
Sivakasi,
Virudhunagar District. .. Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Department of Commercial Taxes,
Fort St. George, Beach Road,
Chennai - 600 009.

2.The Commissioner of Commercial Taxes,
2nd Floor, Elilagam,
Chepauk,
Chennai - 600 005.

3.The Commercial Tax Officer Enforcement
Wing Group II, C.T. Buildings,
Satchiapuram, Sivakasi,
Virudhunagar District.

4.The Assistant Commissioner (S.T.)-I,
C.T.Buildings, Satchiapuram,
Sivakasi,
Virudhunagar District. .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceeding of the 4th respondent in his revisional order in proceeding in TIN 33315961444/2010-11, dated 19.06.2018 received by the petitioner on 03.07.2018 and quash the same, and to direct the 4th respondent to cross examine the Assessing Officer of the seller dealer call for objection and to consider all the bills and records etc. already submitted 29.08.2013, accord a personal hearing and then pass the revisional Assessment Order, if any, for the year 2010-11.

For Petitioner : Mr.M.MD.Ibrahim Ali

For Respondents : Mr.S.Dhayalan, Government Advocate

ORDER

Challenge to the writ petition is the order passed by the 4th respondent, dated 19.06.2018, in proceeding in TIN 33315961444/2010-11.

2. The petitioner is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956. On an inspection conducted by the Enforcement Wing officials on 23.01.2014 at the Office of the petitioner, certain defects were noted by the respondents for the assessment year 2010-11 and the proposals were sent on 13.04.2018. The petitioner has filed his objections, wherein he has stated that the omission of payment of tax is not willful and therefore, requested to condone the lapses. However, the 4th respondent has imposed penalty of Rs.6280/- in respect of defect No.l. Insofar as the defect No.2 is concerned, it is stated that there are certain mismatches in the transaction of purchase and sale, The petitioner has sought for break up details of the invoices mentioned in the revision notice. But, without furnishing the details of the invoices and without affording an opportunity of personal hearing, the impugned order came to be passed.

3. The learned counsel for the petitioner would contend that as per Section 22(4) of the Tamil Nadu Value Added Tax Act, the petitioner is entitled to personal hearing and hence, the order passed without providing an opportunity of personal hearing is bad in law.

4. Heard the learned counsel for both sides.

5.Admittedly, as contended by the learned Government Advocate, the petitioner admitted his lapse in not paying the tax due and therefore, the imposition of penalty is justified. Insofar as the defect No.2 is concerned, the learned Government Advocate would contend that an opportunity will be given and an order will be passed afresh.

6. Considering the said submission, the impugned order is set aside insofar as the defect No.2 noted in the impugned order, dated 19.06.2018. The 4th respondent is directed to provide all the materials with regard to the mismatches as requested by the

petitioner and call for objections and on receipt of objections, consider the same on merits and thereafter, pass final orders, after affording an opportunity of personal hearing to the petitioner. The said exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

7.This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1.The Secretary to Government,
Department of Commercial Taxes,
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Chennai - 600 009.

2.The Commissioner of Commercial Taxes,
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4.The Assistant Commissioner (S.T.)-I,
C.T.Buildings, Satchiapuram,
Sivakasi,
Virudhunagar District.

+1CC to Mr.M.MOHAMED IBRAHIM ALI, Advocate, SR.No.75837
+1CC to the Special Government Pleader SR.No. 75767

W.P.(MD)No.16784 of 2018
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