IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 10.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.12541 of 2012
and
M.P.No.1 of 2012

Shri Vijayalakshmi Agency,
rep.by its Proprietor,
G.M.Chandrasekar,
37/19, Govindappa naicken Street,
Chennai-1. ...Petitioner

Vs

1.The Assistant Commissioner (CT)
Mannady (West) Circle
Wavoo Complex, NSC Bose Road,
Chennai-1.

2.The Deputy Commercial Tax Officer,
Mannady (West) Circle,
Wavoo Complex, NSC Bose Road,
Chennai-1.

3.The Assistant Commissioner (CT)
Vallalar Nagar Assessment Circle,
Angappa Naicken Street,
Chennai-1. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the respondent in TIN 33461261954/2009-10 dated 07.02.2012 and quash the impugned proceedings dated 07.02.2012.

For Petitioner : Mr.R.Kumar

For Respondents: Ms.G.Dhanamadhri
Govt.Advocate

O R D E R

Pursuant to the notice issued by the 1st respondent herein seeking for reversal of Input Tax Credit (ITC), the petitioner herein had given his objections through a letter dated 13.10.2011 stating among other things that the purchases referred to by the respondents were prior to the date of cancellation of registration of the concerned Dealers. The respondent while passing the impugned Assessment Order had extracted his objections in the Assessment Order. But without consideration of such a objections, the respondents had passed an order confirming the proposal, on the ground that the Dealer /petitioner has not come out with a proper explanation, inspite of sufficient opportunity.

2. In my view, when the petitioner had raised specific objections and the same has been extracted in the impugned order, due consideration should have been extended to the same. In the absence of the same, it would be proper to set aside the order and remand back the matter to the respondents for fresh consideration.

3. In the light of the above observations, the impugned order in TIN 33461261954/2009-10 dated 07.02.2012 on the file of the 1st respondent is set aside and consequently, the matter is remanded back to the 1st respondent herein for fresh consideration, after giving an opportunity of personal hearing to the petitioner. Such an exercise shall be completed within a period of three (3) months from the date of receipt of a copy of this order. During such exercise of fresh re-assessment, the petitioner is at liberty to raise further objections before the authorities.

4. The writ petition stands disposed of with the above observations. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

Sk

To

1.The Assistant Commissioner (CT)
Mannady (West) Circle
Wavoo Complex, NSC Bose Road,
Chennai-1.

2.The Deputy Commercial Tax Officer,
Mannady (West) Circle,
Wavoo Complex, NSC Bose Road,
Chennai-1.

3.The Assistant Commissioner (CT)
Vallalar Nagar Assessment Circle,
Angappa Naicken Street,
Chennai-1.

+1cc to Mr.R.Kumar, Advocate, S.R.No. 57977

RR(CO)
GN(26/08/2019)