IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 28.01.2020
CORAM
THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

W.P.No.4061 of 2019 and
WMP.No.4516 of 2019

Aishwarya Stores
Represented by its Proprietor,
R.Periyanayagam,
41, South Mada Street,
Mylapore, Chennai-4. .. Petitioner

Vs.

The State Tax Officer,
Mandaveli Assessment Circle,
46, Greenways Road, Chennai-28. .. Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records of the respondent in TIN 33910802557/2013-14 dated 4-1-2019, quash the same.

For Petitioner : Mr.R.Kumar

For Respondent : Mr.M.Hariharan,
Additional Government Pleader (T)

ORDER

The petitioner challenges an order of assessment passed in terms of the Tamil Nadu Value Added Tax Act, 2006 (in short Act) for the period 2013-14. The petitioner is a dealer in general goods and had filed monthly returns in Form-K.

2.The Assessing Authority, on verification of the purchase details from the departmental website appears to have noticed interstate purchases during the month of February. Since, the provisions of Section 3(4) require the dealer to have engaged in domestic transactions alone, the Officer issued a pre-assessment notice dated 04.01.2019 proposing the rejection of the claim for reduced rate of compounding tax.

3.In reply dated 28.12.2018 the petitioner specifically brought to the notice of the Officer, the fact that it is not engaged in interstate purchases. A specific request was made to the officer to furnish copies of the purchase bills in respect of those interstate transactions alleged to have been engaged in by it. However without supplying copies of the documents as sought and without even hearing the petitioner, the impugned order has come to be passed on 04.01.2019 merely reiterating the pre-assessment proposals.

4.Today learned Additional Government Pleader produces a communication dated 05.12.2019 wherein the officer states that the third party details culled from the website were furnished to the dealer. However, there is no acknowledgement of receipt from the dealer that is produced. Thus, I am not inclined to accept this explanation.

5.It is incumbent upon the authority to have supplied copies of the invoices as sought for specifically in order that the petitioner could have explained or responded to the same. Not having done this, the principles of natural justice stand violated. The impugned assessment is set aside to be re-done de novo after due process.

6.This writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

vs

To

The State Tax Officer,
Mandaveli Assessment Circle,
46, Greenways Road, Chennai-28.

+1cc to Mr.R.Kumar, Advocate, SR.No.6826.
+1cc to Government Pleader, SR.No.6124.

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PP(CO)
CSR: 11.03.2020