BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 30.07.2020
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).No.2701 of 2020
and
W.M.P.(MD).No.2308 of 2020

Tvl.S.K.Medicals,
Represented by its Proprietor,
S.Kuthalingam ...Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
o/o. the Principal and Special Commissioner of Commercial Taxes, Ezhilagam, Chepauk,
Chennai-600 005.

2.The Deputy Commercial Tax Officer,
Shengottai Assessement Circle,
Commercial Tax Office,
No.126, Main Road,
Shengottah, Tirunelveli District-627 809. ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for records pertaining to the impugned proceedings of the second respondent in TIN: 33185701798 / 2015-16, dated 08.11.2019 and quash the same.

For Petitioner : Mr.B.Rooban
For Respondents : Mrs.J.Padmavathi Devi
Special Government Pleader

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the respondents.

2. The writ petitioner is an assessee under the second respondent. The second respondent initiated action against the petitioner on the ground of some discrepancies disclosed from the details downloaded from the web portal. The case against the petitioner is that the petitioner had suppressed certain purchases in his returns. The petitioner's defence is that the purchase attributed to them had never taken place. Therefore, the second respondent was obliged to make a detailed intra departmental enquiry as per the judgment of this Court made in ***JKM Graphics Solutions***

Private Limited Vs. Commercial Tax Officer, Veperty Assessement Circle, Chennai, reported in ***(2017) 99 VST 343 (Mad)*** and only thereafter take a final call. But in the case on hand, no such intra departmental enquiry was made with the other end dealer. The second respondent had issued notice and after noting that the petitioner had not placed any material had chosen to pass the order impugned in this Writ Petition.

3. As rightly contended by the petitioner's counsel that this does not appear to be the correct approach. When the petitioner's defence is that he never made the purchase in question except denying he cannot furnish any other material. Therefore, the order impugned in the Writ Petition stands quashed. The matter is remitted to the file of the second respondent to pass orders afresh in accordance with law.

4. The Writ Petition stands allowed on these terms. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

tsg

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Commissioner of Commercial Taxes,
o/o. the Principal and Special Commissioner of
Commercial Taxes, Ezhilagam, Chepauk,Chennai-600 005.

2.The Deputy Commercial Tax Officer,
Shengottai Assessement Circle,
Commercial Tax Office,
No.126, Main Road,Shengottah, Tirunelveli District-627 809.

ORDER MADE IN
W.P.(MD).No.2701 of 2020
30.07.2020

AP(06/08/2020) 2P 3C