IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :15.06.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.5679 of 2015
and
M.P.No.1 of 2015

Witmer Enterprises Pvt. Ltd.,
Represented by its Director Ms.C.R.Hymavathy,
Flat No.B1, No.6, Indus Nirvana Apartments,
Venus Colony II Street,
Alwarpet, Chennai – 600 018. ...Petitioner

Vs

1.The Assistant Commissioner (CT),
Mylapore Assessment Circle,
No.46, Greenways Road,
Chennai – 600 028.

2.Sushen Constructions Pvt. Ltd.,
Suite No.2, Sucons Sivagami Square,
Door No.147/1, G.N.Chetty Road,
T.Nagar, Chennai – 600 017.

3.The Assistant Commissioner (CT),
Nandanam Assessment Circle,
No.46, Greenways Road,
Chennai – 600 028. ... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorari, to call for the records relating to the order in Rc.1231/2014/(2009-10) dated 09.01.2015 passed by the respondent and quash the same.

For Petitioner	: Mr.Joseph Prabakar
For Respondents	: Mr.V.Veluchamy Government Advocate for R1 & R3 R2- Dismissed vide Court order dated 08.09.2016

ORDER

The order dated 09.01.2015 passed by the Assistant Commissioner (C.T.), Mylapore Assessment Circle, is under challenge in the present writ petition.

2. The main ground raised by the writ petitioner is that notice was issued by the first respondent on 14.08.2014, setting out certain facts. Though petitioner has not filed any objections, waiting for an opportunity of personal hearing. However in short, the respondent passed impugned order dated 09.01.2015 affixing the same paragraph found in the notice dated 14.08.2014 and passed the order.

3. The learned counsel for the petitioner made a submission that there was no deliberation nor any discussion with reference to the issues set out in the notice. Thus, the impugned order has been passed without proper adjudication and without providing an opportunity of personal hearing to the writ petitioner.

4. On perusal of the impugned order, reveals that there was no discussion on merits with reference to the issues involved. Undoubtedly the petitioner has not filed any objections, even in such circumstances, the Competent Authorities are bound to record reasons after discussing the issues involved. A blanket order reproducing the contents made in the notice cannot be converted as a final order under the provisions of the Tamil Nadu Value Added Tax Act. The order must not only be speaking, the same should contain reasons and findings with reference to the issues involved. In view of the fact, there was no discussion absolutely identifiable in the impugned order, this Court is inclined to remand the matter back to the respondent for reconsideration.

5. Accordingly, the impugned order passed by the first respondent in proceedings RC.1231/2014/(2009-10), dated 09.01.2015, is quashed and the matter is remanded back to the first respondent for fresh adjudication of the issues on merits and in accordance with law and by affording opportunity to the writ petitioner to defend their case. The petitioner is at liberty to submit their objections, if any, along with the order passed in this writ petition.

6. The first respondent is directed to complete the said exercise of fresh hearing and pass final orders on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order.

7. With these directions, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed,

15.06.2021

Speaking order/Non-speaking order
Index : Yes/No
Internet: Yes/No

Pns

To

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S.M.SUBRAMANIAM,J.

Pns

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