IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2021

CORAM

THE HON'BLE Mr.JUSTICE M.SUNDAR

W.P.No.17545 of 2021
and
W.M.P.No.18648 of 2021

Audio Media Inc
Represented by its Proprietor
T.Selvakumar
46, Bhemanna 2nd Street
Abhiramapuram, Chennai-600 018. .. Petitioner

-Vs.-

The State Tax Officer
Commercial Tax Department
Alwarpet Assessment Circle
Room No.207, Second Floor
Commercial Taxes and Registration Department Building
Government Farm Village
Nandanam, Chennai-600 035. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records and proceedings thereof, of the respondent in connection with the impugned order dated 20.07.2021 relating to TIN:33550821088/2015-2016 and quash the same and direct the respondent to cancel the assessment based on deemed sale value of Pianos by the petitioner company for the year 2015-2016.

For Petitioner : Mr.Venkatesh Mahadevan

For Respondents : Mr.T.N.C.Kaushik
Government Advocate

O R D E R

Captioned writ petition is listed in the admission Board today i.e., under the cause list caption 'FOR ADMISSION'.

2. Mr.Venkatesh Mahadevan, learned counsel for writ petitioner is before this Virtual Court.

3. The subject matter of writ petition arises under 'the Tamil Nadu Value Added Tax Act, 2006, (Tamil Nadu Act No.32 of

2006)' [hereinafter 'TNVAT' for the sake of convenience and clarity].

4. It was pointed out by learned counsel for writ petitioner that the notice of assessment and demand has been issued in the name of another company namely, Kobelco Construction Equipment India (P) Ltd., and not in the name of writ petitioner.

5. Adverting to the aforementioned notice of assessment and demand as well as the averments in the writ affidavit, learned counsel submitted that there is a clear error and the entire procedure is flawed.

6. Mr.T.N.C.Kaushik, learned State counsel accepts notice on behalf of lone respondent.

7. This virtual Court, with the consent of learned counsel for writ petitioner as well as learned Revenue counsel, took up the main writ petition as the matter turns on an extremely narrow compass.

8. The case file placed before this Court and the submissions made before this Court make it clear that indisputably an error has crept into the procedure culminating in 'order dated 20.07.2021 bearing Reference No.TIN:33550821088/2015-2016' [hereinafter 'impugned order' for the sake of brevity, clarity and convenience].

9. The above appears to be an inadvertent secretarial error. Therefore, in the light of there being no disputation or disagreement regarding aforementioned inadvertent error having crept in qua impugned order, this Court is of the considered view that it would be appropriate in the interest of both parties i.e., writ petitioner-Assessee as well as Revenue to pass a simple order setting aside the impugned order and sending the matter back to respondent without expressing any view or opinion on the merits of the matter. Therefore, the following order is passed:

(a) The impugned order being order dated 20.07.2021 bearing reference No. TIN:33550821088/2015-2016 is set aside solely on the ground that an inadvertent error has crept in qua the proceedings i.e., notice of assessment and demand being issued in the name of another assessee (not the writ petitioner).

(b) The sequitur to the above limb of order is, this Court does not express any opinion or view on merits of the matter and the impugned order is set aside solely to facilitate assessment afresh in the light of the inadvertent error that has crept in.

(c) Further sequitur to the aforementioned two limbs is, all the questions are left open.

(d) Respondent shall take up the matter, embark upon the process of assessment and complete the same in accordance with law as expeditiously as the business of respondent would permit, but in any case, within three months from today i.e., on or before 23.11.2021.

10. The captioned Writ Petition and Writ Miscellaneous Petition are disposed of with the above directives. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mk

To

The State Tax Officer,
Commercial Tax Department,
Alwarpet Assessment Circle,
Room No.207, Second Floor,
Commercial Taxes and Registration Department Building,
Government Farm Village,
Nandanam, Chennai-600 035.

+1cc to M/s.Venkatesh Mahadevan, Advocate Sr No.41921
+1cc to the Special Government Pleader (Taxes) Sr No.42519

W.P.No.17545 of 2021

NK (CO)
PR (16/09/2021)