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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.25532 of 2021
and
W.M.P.No.26950 of 2021

(Through Video Conferencing)

M/s.Sri Kamatchi & Company,
Represented by G.Sakthivel,
Partner,
5, A.V.Iyer Street,
Salem - 636 002.

... Petitioner

Vs

The Assistant Commissioner (ST),
Sevapet Circle, Salem - 636 002.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the files of the respondent in TIN: 33312641522/2008-2009 dated 20.10.2021 and quash the same as being without jurisdiction and authority of law and hence invalid and illegal.

For Petitioner : Mr.V.Srikanth

For Respondent : Ms.Amirta Poonkodi Dinakaran
Government Advocate

ORDER

Ms.Amirta Poonkodi Dinakaran, learned Government Advocate takes notice on behalf of the respondent.

2. This is the second round of litigation before this Court. Earlier, the petitioner had filed W.P.Nos.5564 to 5569 of 2018 which came to be disposed by an order dated 13.03.2018 with the following directions:-



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"5. Having regard to the submissions made by the learned counsel on either side and considering the fact that the Assessing Officer has to re-do the assessment, in view of the above said decision of this Court, this Writ Petitions are allowed and the impugned orders are set aside. Consequently, the matters are remitted back to the Assessing Officer to re-do the assessment commencing from the stage of issuing notice of proposal, after following guidelines/procedures issued by this Court in the above referred order. The Assessing Officer shall also give personal hearing to the petitioner before finalizing the order of assessment. Whole exercise shall be completed by the Assessing Officer within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed."

3. After the aforesaid order was passed in the year 2018, the respondent did not take any further steps to finalize the assessment in terms of the time stipulated in the aforesaid order. On 04.10.2021, a Show Cause Notice was issued to the petitioner and called upon for a personal hearing on 11.10.2021.

4. It is the case of the petitioner that the notice itself was received by the petitioner on 08.10.2021 and therefore a letter was sent by the petitioner on 13.10.2021 with a request stating that the petitioner's Managing Partner was undergoing treatment and was frequenting between Salem and Chennai and therefore fifteen days time may be granted for the petitioner to file a reply to the Show Cause Notice dated 04.10.2021. As the petitioner failed to file a reply in terms of the Show Cause Notice dated 04.10.2021 received by the petitioner on 08.10.2021, the impugned order has been passed.

5. The dispute in the present writ petition pertains to mismatch between the turn over declared in the returns filed under Section 21 of the Tamil Nadu Value Added Tax Act, 2006 and the information gathered by the respondent from the website/web portal. Though the impugned order refers to the recent circular issued by the Commissioner, there is no discussion in the impugned order.

6. The learned Government Advocate for the respondent submits that that petitioner is not entitled to any of the information exchanged between the Departmental Officer by confirming the demand.



7. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent. I have perused the impugned order and the records that have been filed in this writ petition.

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8. It is noticed that the petitioner has requested for adjournment, which request was not considered. It is also noticed that the impugned order passed by the respondent is a non-speaking order in nature as there is no discussion as to how the demand has been confirmed.

9. Considering the same, the impugned order is set aside and the case is remitted back to the respondent to pass a speaking order within a period of four weeks from the date of receipt of a copy of this order. The petitioner is directed to appear before the respondent for a first hearing on 20.12.2021. It is made clear that no further adjournment or request should be entertained by the respondent while passing a fresh order pursuant to this order.

10. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

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To

The Assistant Commissioner (ST),
Sevapet Circle, Salem - 636 002.

+1 CC to Mr.V.Srikanth, Advocate sr 63314
+1 CC to The Special Government Pleader (T) sr 63761.

W.P.No.25532 of 2021
and
W.M.P.No.26950 of 2021

PMK(CO)
SP(15/12/2021)