BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :09.07.2021
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
W.P(MD)No.10475 of 2021
and
W.M.P(MD)No.8153 of 2021

Bhabi Traders,
Represented by its' Proprietor T.Prem,
No.11/80, Main Road, Kattathurai Post,
Kanyakumari District. ... Petitioner

Vs.

The State Tax Officer,
Thuckalay at
Kattathurai Post - 629 158,
Kanyakumari District. ... Respondent

(Cause-title amended vide Court order dated 28.06.2021 in W.M.P(MD)No.8323 of 2021 in W.P(MD)No.10475 of 2021 by JNBJ)

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondent herein to consider the representations of the petitioner dated 12.03.2021 and 30.03.2021 and grant to the petitioner the materials and records and opportunities required therein and grant an opportunity of summoning and cross-examining the witnesses, before passing an order, based on the revised pre-revision notice in TIN No.33626163955/2010-11, dated 02.02.2021.

For Petitioner : Mr.M.Azeem

For Respondents : Mr.P.Thilak Kumar,
Government Advocate

ORDER

The petitioner has filed this writ petition seeking for issuance of a Writ of Mandamus, directing the respondent herein to consider the representations of the petitioner dated 12.03.2021 and 30.03.2021, to give materials and records to the petitioner and to grant an opportunity of summoning and cross-examining the witnesses, before passing an order, based on the revised pre-revision notice in TIN No.33626163955/2010-11, dated 02.02.2021.

2.The brief facts of the case are as follows:

The petitioner is a dealer in steel, cement and hallow blocks and a dealer under the respondent herein. For the assessment year 2011-12, the respondent passed a revision of assessment order on 06.10.2015, alleging suppression of turnover. The said order was challenged by the petitioner by filing a writ petition in W.P(MD)No.22174 of 2016, alleging violation of principles of natural justice. The said writ petition was allowed vide order dated 21.11.2016, in and by which, the respondent was directed to provide sufficient materials to the petitioner as well as an opportunity of personal hearing, which includes the hearing with reference to the documents and to take a decision within a period of four weeks. However, the respondent did not provide any records and did not grant any personal hearing within the period, as directed by this Court. Moreover, the respondent had issued a revision of assessment notice on 27.05.2019 alleging suppression of another purchase. For that, the petitioner has also submitted a detailed reply dated 14.06.2019. Subsequently, the respondent had issued another revised pre-assessment notice dated 02.02.2021. Hence, the petitioner had submitted a detailed reply on 12.03.2021 raising the question of limitation for assessing the turnover based on 'icegate' details. With regard to that, the petitioner had also sent a representation to the respondent on 30.03.2021 requesting to give documents and an opportunity of personal hearing to the petitioner. The said representation is said to be still pending. Hence, this writ petition.

3. The learned counsel would bring to the notice of this Court that the respondent had already acceded to a part of the request of the petitioner and the witnesses had been summoned and the request with regard to supply of documents has not been considered till date and the petitioner has also given a representation to that effect and therefore, the said representation may be directed to be considered.

4. The learned Government Advocate appearing for the respondent would state that the representation of the petitioner will be considered within a reasonable time.

5. Heard the submissions made on either side and perused the materials available on record.

6. Admittedly, as per orders of this Court dated 21.11.2016 in W.P(MD)No.22174 of 2016, the petitioner is entitled to get the details as to the assessment proposal since new materials and evidence is relied on in the revised pre-revision notice dated 02.02.2021. Therefore, the respondent is directed to consider the representation of the petitioner dated 30.03.2021 as to the request of the petitioner to provide the relevant documents based on which the assessment is proposed to be revised and pass orders, within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petition is disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pm

Note:(i) 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:

The State Tax Officer,
Thuckalay at
Kattathurai Post – 629 158,
Kanyakumari District.

+1 CC to M/s.M.AZEEM, Advocate(SR-21888[F]dated 09/07/2021)

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