BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.02.2021
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.220 of 2019 and
W.M.P.(MD)Nos.173, 174 & 1889 of 2019

M/s.Arputha Constructions,
Rep. by its Proprietor S.Subramanian,
No.85, Iyyanar Sannathi,
Karaikudi. ... Petitioner

Vs.

1. The Commercial Tax Officer,
   Karaikudi Assessment Circle,
   Karaikudi.

2. The Joint Commissioner(CT),
   Madurai Division,
   Commercial Tax Buildings,
   Madurai. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Ceriorarified Mandamus, calling for the records in R.O.C.A4.868/2015 dated 12.07.2016 issued by the first respondent and proceedings dated 28.06.2018 issued by the second respondent and quash both as illegal, arbitrary and further direct the first respondent to pass an order afresh based on the proceedings dated 24.08.2016 in Letter No.D3/20970/2016 issued by the Additional Chief Secretary/Commissioner of Commercial Taxes, Chennai after affording reasonable opportunity of being heard to the petitioner within such time as may be directed by this Court.

For Petitioner : Mr.N.Sudalai Muthu,
for Mr.S.Karunakar

For Respondents : Mrs.J.Padmavathi Devi,
Special Government Pleader.

O R D E R

Heard the learned counsel on either side.

2. The petitioner is a dealer registered with the first respondent. The petitioner suffered an adverse order dated 12.07.2016. In response to the said order, the petitioner filed an application under Section 84 of Tamil Nadu Value Added Tax Act

before the first respondent. The petition was dismissed vide order dated 10.04.2018. Questioning the same, the petitioner filed revision before the second respondent. The revision petition was dismissed by the impugned order dated 28.06.2018. Questioning the same, this writ petition came to be filed.

3. The first respondent filed counter affidavit and the respondents have prayed for dismissal of the writ petition.

4. I carefully considered the rival contentions and went through the materials on record.

5. The rectification petition filed by the petitioner herein was dismissed by the first respondent on 10.04.2018. Aggrieved by the same, the petitioner filed a revision petition. In the revision petition, number of grounds have been raised. The said revision petition has been rejected by the second respondent by holding that in the relief column, clear explanation has not been given.

6. I have no hesitation to come to the conclusion that the impugned order rejecting the petitioner's revision petition does not convey anything. When the petitioner has filed a revision, it is the duty of the second respondent to consider the contentions set out therein and pass a speaking order. In the case on hand, in a mechanical manner, without giving any reason, the second respondent has rejected the revision petition. This is clearly illegal. Therefore, I have no hesitation to quash the same. The order impugned in this writ petition is quashed. The matter is remitted to the file of the second respondent. The second respondent shall pass orders on merits and in accordance with law.

7. It is also seen that Section 54(5) of Tamil Nadu Value Added Tax Act, 2006 contemplates grant of personal hearing before passing final orders. It is obvious that such an opportunity of personal hearing was not afforded to the petitioner. On this ground also, the impugned order becomes vulnerable.

8. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

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 Commercial Tax Officer,
   Karaikudi Assessment Circle,
   Karaikudi.

2. The Joint Commissioner(CT),
   Madurai Division,
   Commercial Tax Buildings,
   Madurai.

+1 CC to Mr.S.KARUNAKAR, Advocate (SR-6803[F] dated 24/02/2021)

+1 CC to Mr.SPL GP (SR-6923[F] dated 24/02/2021)

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