BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.8289 to 8294 of 2017
and
W.M.P.(MD)Nos.6344 to 6355 of 2017

In W.P.(MD)No.8289 of 2017
M/s.K.K.P.Construction,
represented by its Proprietor,
Kadar Karaya Pillai,
No.24, Kasthuribai Nagar,
Melur,
Madurai District. ... Petitioner[in all WP's]

-Vs-

The Commercial Tax Officer(FAC),
Melur Assessment Circle,
Madurai Main Road,
Melur, Madurai District. ... Respondent[in all WP's]

Common Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to the impugned proceedings issued by the respondent Commercial Tax Officer in TNGST 4941065/2006-07, 2007-2008, 2008-2009, 2010-2011, 2012-2013 dated 05.10.2016, 24.10.2016, 15.11.2016 and quash the same.

For Petitioner : Mr.R.Aravindan
for Mr.D.Gandiraj
For Respondent : Mrs.J.Padmavathi Devi
Special Government Pleader

COMMON ORDER

Heard the learned counsel on either side.

2.The petitioner is a contractor who had done works for TWAD Board. The specific stand of the petitioner is that the board itself would deduct the tax dues from the bill amount and remit the same directly to the respondent under Form 37(A). While so, the petitioner was issued with slew of revision notices. The specific stand of the petitioner is that he lodged his objection on 02.09.2016. But without considering the same, the impugned orders came to be passed revising the petitioner's assessment for the respective years and levying tax and penalty. Questioning the same, the writ petitions have been filed.

3.The respondent has filed a detailed counter affidavit and the learned Special Government Pleader took me through its contents. It is submitted that even though in the typed set of papers, the explanation said to have been given by the petitioner has been enclosed, there is no documentary proof to show that it was actually lodged with the respondent. It is further contended that against the impugned orders, the petitioner could have as well availed the statutory remedy of appeal.

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

5.The impugned orders have been passed under Section 16 of TNGST Act, 1959. The said provision contemplates giving reasonable opportunity to the dealer to show cause against the revision of assessment. It is submitted that this expression has been judicially interpreted and the authority was obliged to grant personal hearing to the petitioner herein. But in the case on hand, such a personal hearing was not granted.

6.Therefore, on this sole ground, I am interfering with the impugned orders. The orders impugned in the writ petition are set aside. The Writ Petitions are allowed. The matters are remitted to the file of the respondent to pass orders afresh in accordance with law. The contentions of the petitioner are left open. The petitioner is at liberty to produce all the supporting documents, when such personal hearing is granted to the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

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

The Commercial Tax Officer(FAC),
Melur Assessment Circle,
Madurai Main Road,
Melur, Madurai District.

W.P.(MD)Nos.8289 to 8294 of 2017
and
W.M.P.(MD)Nos.6344 to 6355 of 2017
24.03.2021

SSS(CO)
TR(26.04.2021) 3P 2C