IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.852 & 854 of 2022
and
W.M.P.Nos.933 & 934 of 2022

(Through Video Conferencing)

M/s.R.K.M.Electricals,
Rep. by its Proprietor,
K.Manivannan,
No.59/84, Othavadai Street,
Kodambakkam,
Chennai - 600 024. ... Petitioner in both W.Ps.

Vs.

The Assistant Commissioner (ST),
MMDA Colony Assessment Circle,
Palaniappa Maaligai,
No.10, 1st Floor, Greams Raod,
Chennai - 600 006. ... Respondent in both W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the respondent in TIN 33761481397/2013-14 & TIN 33761481397/2014-15 both dated 29.10.2021 and quash the same as illegal, arbitrary, without jurisdiction and against the principles of natural justice.

For Petitioner in both W.Ps. : Mr.K.Soundararajan

For Respondents in both W.Ps. : Mr.Richardson Wilson Additional Government Pleader

C O M M O N O R D E R

The petitioner has challenged the impugned orders both dated 29.10.2021 in these Writ Petitions on the ground that the impugned orders have been passed without following principles of natural justice.

2. The learned counsel for the petitioner submits that earlier assessments were completed for the Assessment Years

2013-2014 & 2014-2015, and an VAT Audit was conducted on 17.08.2020, and Show Cause Notices dated 15.09.2017 were issued under Section 22(3) of the Tamil Nadu Value Added Tax Act, 2006 proposing the tax on the differential turnover. It is submitted that after the petitioner filed their objection on 26.09.2017, Revision Orders were passed on 26.03.2018, later Revision Notices dated 05.08.2020 and 15.09.2021 were issued.

3. It is submitted that the first Revision Notices dated 05.08.2020 were issued for the Assessment Years 2013-2014 & 2014-2015 during the first wave of Covid-19 and the second Revision Notices dated 15.09.2021 were issued for the same Assessment Years when the whole country was again in partial lock down. It is therefore that the petitioner could not file its reply to the respective Notices.

4. The learned counsel for the petitioner submits that the impugned orders have been passed confirming the tax proposed in the Revision Notices contrary to the records and therefore prays for setting aside the impugned orders.

5. Opposing the prayer, the learned Additional Government Pleader submits that the petitioner was issued with Notices, but, failed to respond to the same and therefore, based on the available records, the impugned orders have been passed.

6. The learned Additional Government Pleader further submits that the impugned orders are well reasoned and require no interference. It is submitted that the petitioner has an alternate remedy by way of an appeal before the Appellate Deputy Commissioner under Section 51 of the Tamil Nadu Value Added Tax Act, 2006 and therefore, on this score also, these Writ Petitions are liable to be dismissed.

7. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent and perused the impugned orders and the previous revision orders.

8. The fact of the cases is that the petitioner was issued with Notices dated 05.08.2020 and 15.09.2021 for the Assessment Years 2013-2014 & 2014-2015. The petitioner has not chosen to reply to the said notices. Therefore, it is not open for the petitioner to state that the impugned orders have been passed in violation of principles of natural justice. Thus, on this score, these Writ Petitions are liable to be dismissed.

9. However, it is noticed that the assessments were completed and thereafter, the notices were sent which has culminated in the impugned order. The petitioner may or may not

cover the cases. Considering the fact that the petitioner has not filed proper replies to the notices which has culminated in the impugned orders, I am inclined to quash the impugned orders and remit the cases back to the respondent to pass fresh orders subject to the petitioner paying 10% of the disputed tax within a period of thirty (30) days from the date of receipt of a copy of this order.

10. The impugned orders which stand quashed by this order shall be treated as corrigendum to the notices issued to the petitioner. It is open for the petitioner to file reply to distance himself from demand that has been proposed in the notices.

11. In case the petitioner fails to deposit the amount as has been ordered in this order, the impugned orders shall stand revived automatically.

12. It is noticed that the dispute pertains to the Assessment Years 2013-2014 & 2014-2015. The respondent shall endeavour to pass appropriate orders on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order subject to the petitioner depositing 10% of the disputed tax.

13. These Writ Petitions stand disposed with the above observations. No cost. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (ST),
MMDA Colony Assessment Circle,
Palaniappa Maaligai, No.10, 1st Floor,
Greams Raod, Chennai - 600 006.

+2ccs to Mr.K.Soundararajan, Advocate SR.No.7506, 7504
+1cc to Special Government Pleader(Tax) SR.No.7807

W.P.Nos.852 & 854 of 2022
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MT(CO)
GMY(15/03/2022)