BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2022

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.15195 of 2022
and
W.M.P.(MD)No.10890 of 2022

S.M.Pandian ... Petitioner

Vs.

The Assistant Commissioner (CT),
Sivagangai Assessment Circle,
Commercial Taxes Office,
No.3, Oversupillai Street,
Sivagangai – 630 561. ... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for records pertaining to the impugned proceedings of the Respondent in TIN.33155400290/2012-13 dated 01.10.2021 and quash the same.

For Petitioner	:	Mr.Raja.Karthikeyan
For Respondent	:	Mr.M.Prakash, Additional Government Pleader

ORDER

This Writ Petition is filed challenging the impugned order dated 01.10.2021, whereby, reassessments were made in respect of the assessment year 2012-13.

2. It is submitted by the learned counsel for the petitioner that the petitioner had submitted their returns and were deemed to have been assessed under Section 22(2) of the TNVAT Act for the assessment year 2012-13 on 31.10.2013. It appears that subsequently there has been revision of assessment vide proceedings dated 04.12.2013 on the premise that the petitioner, with regard to the works contract executed, had not furnished the supporting materials/documents and thus proceeded to exercise the powers of revision of assessment. The petitioner was issued with a notice on 12.11.2013 proposing to make a reassessment on the premise that the petitioner had not filed supporting materials in respect of their claim of deduction with regard to the works contract executed by them. As the petitioner had not filed any objection, the proposals were confirmed.

Thereafter, another pre-revision notice was issued on 14.03.2016 on the premise that the petitioner is a dealer executing contracts of vulnerable houses under ETRP package No.5 for the Government in Ramanathapuram District and the value of the work done was Rs.49,41,665/-. However, it was submitted that in the absence of proof, the allowance of exemption at 84% towards labour and service charges appears to be incorrect. Therefore, the petitioner's claim of deduction was calculated at 30% in terms of Rule 8(5)(d). The petitioner submitted its objection to the above proposal vide its letter dated 09.06.2016, wherein, it was submitted that the petitioner had maintained books of accounts and that the same was also furnished before the respondent and thus requested that the proposal to invoke Rule 8(5)(d) may be dropped. This was followed by yet another revision notice dated 06.03.2020, wherein, it was stated that the petitioner has not furnished any certified profit and loss account, work order, quantity of materials utilised, income tax returns etc., to which the petitioner had submitted that all the above documents have already been furnished and a number of replies have also been furnished to the Respondent and thus requested the Respondent to drop the proposal. However, the respondent has proceeded to confirm the proposal vide impugned order dated 01.10.2021.

3. It is submitted by the learned counsel for the petitioner that the Respondent has unduly dragged the assessment proceeding, which was proposed vide notice dated 14.03.2016. It was further submitted that the impugned order suffers from gross non-application of mind to the materials on record inasmuch as the petitioner had, in response to the notice dated 14.03.2016, submitted the necessary documents/books of accounts and thus the impugned order, which proceeds on the basis of books of accounts, is clearly unsustainable.

4. The learned Additional Government Pleader appearing for the Respondent would submit that if the petitioner produces the books of accounts and another documents, the same would be taken into account and reassessment would be made after affording a reasonable opportunity to the petitioner.

5. Recording the same, the impugned order is set aside with liberty to the petitioner to submit their objections along with the supporting documents within a period of 6 weeks from the date of receipt of a copy of this order. On receipt of the same, the Respondent shall proceed to complete the assessment after providing the petitioner a reasonable opportunity.

6. Accordingly, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

29.11.2022

Index : Yes / No
Speaking Order : Yes / No

Lm

To:

The Assistant Commissioner (CT),
Sivagangai Assessment Circle,
Commercial Taxes Office, No.3, Oversupillai Street,
Sivagangai – 630 561.

MOHAMMED SHAFFIQ, J.

Lm

W.P.(MD)No.15195 of 2022
and
W.M.P.(MD)No.10890 of 2022

29.11.2022