IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **22.02.2023**

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.5167 of 2023
and
W.M.P.No.5170 of 2023

K.Ravikumar ... Petitioner

Vs.

Office of the State Tax Officer,
Commercial Tax Office,
Jawalikadai Veedhi,
Dharapuram Assessment Circle,
Dharapuram - 638 656. ... Respondent

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondents in TIN No.:3341023744/2015-2016 dated 23.02.2021 and quash the same, consequently to call for the records of the respondents in TIN No.:3341023744/2015-2016 dated 27.12.2022 and quash the same and also direct the respondent to consider the revised assessment on the basis of reply dated 23.03.2021 along with the documents therein by giving a personal opportunity of hearing.

For Petitioner : Mr.G.Surya Narayanan

For Respondent : Ms.Amirtha Dinakaran
Government Advocate

ORDER

This Writ Petition has been filed challenging the assessment order dated 23.02.2021 passed by the respondent as well as the consequential Auction notice dated 27.12.2022 on the following grounds:

a) The assessment order dated 23.02.2021 was passed by the respondent by violating the principles of natural justice;

b) After the passing of the impugned assessment order dated 23.02.2021, the respondent has once again sent a revision of assessment notice dated 25.02.2021 under Section 27 of the Tamil Nadu Value Added Tax Act, 2006 which is arbitrary and illegal in view of the fact that the assessment order dated 23.02.2021 is still in place.

c) The Consequential impugned Auction notice dated 27.12.2022 is arbitrary and illegal.

2. Learned Government Advocate appearing for the respondent has received written instructions from the respondent on 22.02.2023 which is extracted hereunder:

> *"Tvl.K.Ravikumar is a registered dealer of this circle doing business in civil works contract with TIN No.:33413023744. The dealer has filed Writ Petition in W.P.No.5167 of 2023 against the arrear action initiated in this Office Notice in Form 1 in TIN No.:33413023744/2015-16 dated 27.12.2022.*
>
> *The dealer stated that they have received a revision of assessment notice dated 12.06.2019 with the direction to avail an opportunity of personal hearing on or before 03.06.2019. But the revision of assessment notice has only been issued on 22.05.2019 to the dealer demanding tax of Rs.19,14,675/- and penalty of Rs.19,14,675/- for the year 2015-16. Further, an opportunity of personal hearing has also been offered on 03.06.2019 in the said notice. The revision of assessment notice has been duly served to the dealer on 27.05.2019.*
>
> *As the dealer failed to file their objection with supporting documents, the assessing officer confirmed the demand and passed orders on 23.02.2021. Again a revision of notice dated 25.02.2021 has been issued to*

the dealer by demanding the same tax & penalty as already proposed in the notice dated 22.05.2019.

In response to the notice dated 25.02.2021, the dealer has produced the documents viz., purchase register, sales register, input tax adjustment statement, contract agreements on 12.03.2021. Again a personal hearing notice has been issued from this office notice dated on 05.03.2021 requesting him to appear in person along with reply on or before 12.03.2021. In response to the personal hearing notice the dealer filed the supportive documents on 16.03.2021.

The impugned notice (Form 1 notice) was issued based on the demand raised as per the assessment order dated 23.02.2021 and considered that no further action pending to be finalized by oversight. Hence the said notice will be withdrawn and fresh proceedings will be initiated for the assessment year 2015-16 based on the queries raised in the revision notice, after affording an opportunity to the petitioner."

3. As seen from the written instructions, the impugned notice (Form 1 notice) dated 27.12.2022 which is based on the assessment order dated 23.02.2021 which is impugned in this Writ Petition, has been withdrawn by the respondent. Since the impugned consequential notice dated 27.12.2022

has been withdrawn, the impugned assessment order dated 23.02.2021 has also got to be quashed. Accordingly, after recording the written instructions received by the learned Special Government Pleader (Taxes) dated 22.02.2023, the impugned assessment order dated 23.02.2021 as well as the consequential Auction notice dated 27.12.2022 are hereby quashed and the Writ Petition is allowed. However, liberty is granted to the respondent to pass an assessment order pursuant to the issuance of revision of assessment notice dated 25.02.2021 after giving due consideration to the objections received from the petitioner and after adhering to the principles of natural justice, including granting the petitioner the right of personal hearing. No Costs. Consequently, the connected Writ Miscellaneous Petition is closed.

22.02.2023

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
ab

To

Office of the State Tax Officer,
Commercial Tax Office,
Jawalikadai Veedhi,
Dharapuram Assessment Circle,
Dharapuram - 638 656.

ABDUL QUDDHOSE. J.,

ab

W.P.No.5167 of 2023

22.02.2023