BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.13877 of 2020
and
W.M.P(MD)No.11522 of 2020

P.Karuppaiah ... Petitioner

Vs.

The State Tax Officer,
Pudukkottai-II Assessment Circle,
CT Buildings, Pudukkottai. ... Respondent

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records of the respondent in TIN 33834123978/2015-2016 dated 28.02.2020 and quash the same as illegal, arbitrary, against the provisions of the Act and also against the principles of natural justice.

For Petitioner	:	Mr.K.Soundararajan
For Respondent	:	Mr.D.Ghandiraj Special Government Pleader

ORDER

This writ petition has been filed for issuance of writ of certiorari to call for the records of the respondent in TIN 33834123978/2015-2016 dated 28.02.2020 and quash the same as illegal, arbitrary, against the provisions of the Act and also against the principles of natural justice.

2. The petitioner would submit that he is a civil works contractor undertaking works for various local bodies and Government Departments and also a registered dealer under the Tamil Nadu value Added Tax Act, 2006 (herein after referred to as "the Act"). The petitioner would also submit that for the assessment year 2016-17, the petitioner had reported a total taxable turnover of Rs.13,84,58,831/-, which was accepted and there was a deemed assessment under Section 22(2) of the Act on 31.10.2015. The petitioner would further submit that on 31.08.2017, a consolidated annual return showing a sales turnover of Rs.22,21,61,504/- was submitted and the entire tax due was also remitted. Thereafter, an inspection was conducted by the Enforcement Wing Authorities and at the time of the inspection, the petitioner had provided all the relevant documents. Thereafter, the Enforcement Wing Authorities had sent

proposals stating that there was a difference between the purchase and sales turnover and that there were also discrepancies on the verification of the departmental website, which included the levy of penalty of 150% under Section 27(3)(c) of the Act. The petitioner had filed his objection explaining that there was no suppression in the purchase list and that the sand value has been separately dealt with in the trading account. The petitioner had explained each of the discrepancies that had been pointed out by the respondent and had also supplied the details of the purchases and the deemed sale value. The petitioner had also explained the cost of pure labour and other like charges works. After the objections were filed, the respondent had set aside the levy in respect of the defect No.1.

3. The petitioner would further submit that despite producing books of accounts and other documents, the impugned order of the respondent would show that no documents had been produced by the petitioner. That apart, the petitioner would submit that despite the detailed explanation towards each of the queries raised, the respondent had proceeded to pass the impugned order, which is subject matter of

challenge in this writ petition.

4. The grievance of the petitioner is that the respondent had not followed the principles of natural justice and had not called the petitioner for an enquiry. Further, it is also the contention of the petitioner that the original assessment being the self assessment, its revision without verifying books of accounts was illegal and arbitrary. However, the reply and documents produced in support of the sand quarry have not been taken into consideration. The further grievance of the petitioner is that after his reply was submitted, no personal hearing had been given to the petitioner. The reply had been filed on 31.11.2019 and without affording the personal hearing, the authority concerned had observed that the petitioner had not appeared for the personal hearing. That apart, none of the documents that have been submitted has been taken into consideration, which is evident from reading of the impugned order.

5. Heard the learned counsel appearing on either side.

6. The primary objection of the petitioner is that the enquiry as

contemplated under the Act has not taken place and that apart, the petitioner had not been given an opportunity to explain the documents submitted by him and produce further documents if required. The documents, which are vital in deciding the case and which were submitted have not been taken note of by the respondent herein. Therefore, considering the above, this Writ Petition is allowed and the impugned notice in TIN 33834123978/2015-2016 dated 28.02.2020, is quashed and the matter is remitted back to the respondent for fresh consideration. The petitioner shall appear before the respondent on 10.05.2023 together with all the documents and the petitioner is also permitted to file an additional reply to explicate the queries raised in the impugned order and thereafter, the respondent shall pass appropriate orders on merits and in accordance with law, after considering the objections / reply and affording an opportunity of personal hearing to the petitioner on or before 30.06.2023. No costs. Consequently, connected miscellaneous petition is closed.

19.04.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

P.T.ASHA, J.

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To

The State Tax Officer,
Pudukkottai-II Assessment Circle,
CT Buildings, Pudukkottai.

W.P.(MD) No.13877 of 2020

Dated: 19.04.2023