BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.09.2023

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THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)Nos.22098 and 22099 of 2023
and
W.M.P(MD)Nos.18420 & 18423 of 2023

Sri Krishna Departmental Stores,
Represented by its partner L.Krishnakumar. ... Petitioner in both the Writ Petitions

Vs.

The Assistant Commissioner,
Karur -2, Assessment Circle,
Commercial Tax Buildings,
Karur. ... Respondent in both the Writ Petitions

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in TIN 33683785967/2014-2015 & 2015-2016, dated 05.09.2022 and consequential proceedings in TIN 33683785967/2014-2015 & 2015-2016, dated 03.07.2023 and to quash the both are illegal, wholly without jurisdiction being contrary to the judgment of this Court reported in the case of

M/s.JKM Solutions Private Limited reported in 2017(99) VST 343 (Mad) and direct the respondent to pass assessment order afresh after furnishing records as requested by the petitioner vide letter of objections, dated 21.10.2021 including the opportunity of cross examination.

In both the Writ Petitions

For Petitioner : Mr.S.Karunakar

For Respondent : Mr.A.K.Manikkam
Special Government Pleader

COMMON ORDER

These writ petitions are filed to quash the proceedings in TIN 33683785967/2014-2015 & 2015-2016, dated 05.09.2022 and consequential proceedings in TIN 33683785967/2014-2015 & 2015-2016, dated 03.07.2023 based on the judgment of this Court reported in the case of ***M/s.JKM Solutions Private Limited reported in 2017(99) VST 343 (Mad)*** and also seeking direction to the respondent to pass assessment order afresh after furnishing records as requested by the petitioner vide letter of objections, dated 21.10.2021 including the opportunity of cross examination.

2. Heard Mr.S.Karunakar, the Learned counsel appearing for the petitioner and Mr.A.K.Manikkam, the Learned Special Government Pleader appearing for the respondent and perused the material documents available on record.

3. The contention of the petitioner is that the respondent has used the web portal details. However, in certain entries, except for the amount no other details were mentioned. The petitioner had relied on under "Defect 1" the entry in Sl.No.258 and the amount was recorded as Rs.94,25,035/-. The respondents have not stated the TIN number, the Party name and other particulars. The petitioner further relied on under "Defect 2" the entry in S.No.21 onwards it states "Moore Market", "Karur (North) and no other particulars were stated. The petitioner infact submitted a letter requesting for further details regarding the web report. But the respondent without serving the particulars had fixed the personal hearings. Without these particulars, the petitioner could not attend the personal hearing and explaining the transactions. Therefore, is of the considered opinion that if the assessment is completed based on the said aforesaid incomplete particulars, then the assessment is absolutely erroneous and the impugned order is violating the principles of natural justice. Therefore, the impugned order is liable to be quashed.

4. Accordingly, the impugned proceedings in TIN 33683785967/ 2014-2015 & 2015-2016, dated 05.09.2022 and consequential proceedings in TIN 33683785967/2014-2015 & 2015-2016, dated 03.07.2023 are hereby quashed. The matters are remitted back to the respondent for re-do the assessment. The respondent is directed to furnish all the particulars, which is claimed by the petitioner. The respondent shall conduct enquiry proceedings, as per the judgment of this Court reported in the case of ***M/s.JKM Solutions Private Limited reported in 2017(99) VST 343 (Mad)***. The respondent shall conduct enquiry proceedings and conclude the same at an earliest.

5. It is seen that the respondent had collected the tax portion from the petitioner's Bank account and the bank account is frozen. Since the assessment order is quashed the respondent is directed to de-freeze the Bank account forthwith.

6. In view of the aforesaid observations and directions, these Writ Petitions are allowed. There shall be no order as to Costs. Consequently, connected Miscellaneous Petitions are allowed.

12.09.2023

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

To

The Assistant Commissioner,
Karur -2, Assessment Circle,
Commercial Tax Buildings,
Karur.

S.SRIMATHY, J

ksa

W.P.(MD)Nos.22098 and
22099 of 2023

12.09.2023