BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.27301 of 2022 and
WMP(MD) Nos.21418 & 21419 of 2022

K.Ganesan ... Petitioner

Vs

The State Tax Officer,
Westveli Street Assessment Circle,
CT Complex, Dr.Thangaraj Salai,
Madurai – 625 020. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent vide proceedings in TIN:33755022436/2013-14, dated 06.07.2022 and quash the same as illegal and devoid of merits and further direct the respondent to re-do the assessment as per the direction in the Appeal order in TNVAT 102/2017 dated 11.05.2022.

For Petitioner : Mr.Rajakarthikeyan
For Respondent : Mr.A.Baskaran
Additional Government Pleader

ORDER

The petitioner is a contractor doing certain contract works for the Government Departments. The petitioner has filed an appeal as against the assessment order dated 06.03.2017 passed by the Commercial Tax Officer, Westveli Street Assessment Circle, Madurai before the Appellate Deputy Commissioner, Madurai. The Appellate Authority has partly allowed the appeal and remanded the matter back to the respondent herein to decide the issue after providing an opportunity of hearing to the petitioner by his proceedings in TNVAT102/2017, dated 11.05.2022. The grievance of the petitioner is that the respondent has taken a decision without providing an opportunity to this petitioner. Hence, this petition.

2.The learned counsel appearing for the petitioner submits that the Appellate Authority has partly allowed the appeal and remanded the matter to provide an opportunity of hearing to this petitioner. However, without providing an opportunity of hearing, the State Tax officer has passed the revised order by his proceedings in TIN:33755022436/2013-14, dated 06.07.2022. Therefore, the impugned proceedings is liable to be set aside.

3.The learned Additional Government Pleader appearing for the respondent submits that as directed by the Appellate Authority, an opportunity of hearing was provided to this petitioner and enquiry notice was issued on 10.06.2022 and again on 22.06.2022. However, the notices issued to the petitioner were returned with an endorsement as "no such addressee". Therefore, they have proceeded further with the available materials and passed an order on the revision on 06.07.2022. According to the learned Additional Government Pleader, this impugned order dated 06.07.2022 sent to the petitioner's residential address, Mettu Street, Bethaniapuram, Madurai by a registered post on 07.07.2022 was also returned with an endorsement “no such addressee”. The learned Additional Government Pleader further submits that the petitioner is evading the proceedings.

4.This Court considered the rival submissions made and also perused the materials placed on record.

5.The assessment order, dated 06.03.2017 issued by the Commercial Tax Officer was challenged by the petitioner before the Appellate Authority. The Appellate Authority by his order dated 11.05.2022 has partly set aside the order and remanded the matter for fresh consideration by providing an opportunity to the petitioner. Now the petitioner has filed this writ petition with a grievance that as directed by the Appellate Authority, the petitioner was not provided with an opportunity. On the side of the respondent, copies of the letters sent to the petitioner through registered post and its acknowledgment are produced before this Court.

6.In view of the above and in order to give quietus to this issue, this Court disposes of this writ petition with a direction to the petitioner to appear before the State Tax Officer, Westveli Street

Assessment Circle/the respondent herein on 30.01.2024 without fail. The respondent shall conduct an enquiry and consider the case of the petitioner in the light of the orders passed by the Appellate Authority and based on the relevant provisions of law, take a decision and pass an order within a period of ten days from thereon. No costs. Consequently, connected Miscellaneous Petitions are closed.

23.01.2024

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

Note: Issue order copy on **24.01.2024.**

To

The State Tax Officer,
Westveli Street Assessment Circle,
CT Complex, Dr.Thangaraj Salai,
Madurai – 625 020.

B.PUGALENDHI, J.

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Order made in
W.P(MD)No.27301 of 2022 and
WMP(MD) Nos.21418 & 21419 of 2022

23.01.2024