IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.697 of 2015

Tvl. Argus Cosmetics Ltd.,
No.7 Seshadri Road
Sujatha Centre
Alwarpet
Chennai - 600 018 ... Appellant

Vs.

The Assistant Commissioner (CT)
Mylapore Assessment Circle
Greenways Road
Chennai - 600 028 ... Respondent

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 03-03-2014 in W.P.No.5683 of 2014.

W.P.No.5683 of 2014 : 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 of the respondent in CST 639503/2010-11 dt 6.12.2013 and quash the same as illegal and unconstitutional and direct the respondent to afford a personal opportunity to the petitioner to file their objections and to produce necessary records and thereafter pass fresh orders in accordance with law.

For appellant : Mr.AR.L. Sundaresan, SC
for M/s. Senniappan
A. Ravichandran
R. Ganesh Kanna

For respondent : Mr. A.N.R. Jayapratap, GA(Taxes)

JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

Heard Mr. AR.L. Sundaresan, learned Senior Counsel appearing for the appellant and Mr. A.N.R. Jaya Pratap, learned Government Advocate (Taxes) appearing for the respondent. With consent, the writ appeal is considered and disposed of at admission stage itself.

2. The appellant had filed a writ petition, W.P. No.5683 of 2014 for quashing the assessment order dated 06-12-2013 passed by the respondent. The Writ Court by order dated 03-03-2014, while setting aside the impugned order, had directed the appellant to deposit 30% of the amount assessed to the respondent along with explanation within a period of ten days and thereafter, the respondent/authority was given liberty to pass orders on merits.

3. The only contention raised by the learned counsel for the appellant before us is that once the writ petition has been allowed and the appellant is permitted to file its objections before the authority concerned and also, the respondent/authority is directed to pass orders, there is no justification on the part of the Writ Court in giving a direction for making a deposit of 30% of the tax amount inasmuch as the question of making any deposit or payment would arise only after fresh assessment is made.

4. In our considered view, the aforesaid submission of the learned counsel for the appellant is justified. Accordingly, the direction issued by the Writ Court regarding deposit of 30% of the tax amount alone is set aside. However, as per the order of the Writ Court, the appellant shall file its objections along with documents, if any, before the respondent within a period of two weeks and on receipt of the same, the respondent is directed to consider the same independently and after giving an opportunity of hearing, shall pass orders afresh, on merits and in accordance with law, as expeditiously as possible and not later than four weeks from the date of receipt of the objections.

5. The writ appeal is allowed to the extent indicated above. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

glp

To

The Assistant Commissioner (CT)
Mylapore Assessment Circle
Greenways Road
Chennai - 600 028

+1cc to Mr.R.Senniappan, Advocate, S.R.No.23820
+1cc to the Special Government Pleader(Taxes), S.R.No.23606

W.A.No.697 of 2015

PA(CO)
CA(14/05/2015)