

IN THE HIGH COURT JUDICATURE AT MADRAS

DATED : 21.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.15767 of 2015
and
M.P.No.1 of 2015

Kalasakthi Agro Private Limited
rep. by Authorised Signatory
L.Sivakumar, No.288,
T.T.K.Road,
Chennai-18.

...Petitioner

Vs

The Assistant Commissioner (CT),
Mylapore Assessment Circle,
No.46, Greenways Road,
Chennai-28.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India to call for the records of the respondent relating to the impugned proceedings passed in TIN-33490703072/2014-2015 dated 10.4.2015 and quash the same.

For Petitioner : Mr.S.Venkatesh

For Respondent : Mr.S.Manohar Sundaram,
Additional Government Pleader (T)

ORDER

The Writ Petition is filed challenging the proceedings of the respondent in TIN-33490703072/2014-2015 dated 10.4.2015 and to quash the same.

2. Heard Mr.S.Venkatesh, learned Counsel appearing for the petitioner and Mr.S.Manohar Sundaram, learned Additional Government Pleader (T) appearing for the respondent.

3. The petitioner is a dealer with the respondent both under TNVAT Act and CST Act. The business operation of the petitioner is within the State of Tamil Nadu as well as outside besides import of Palmolein and Sunflower Oil. On the basis of the monthly returns filed by the petitioner for the period from 01.04.2014 to 30.09.2014, the respondent proceeded to estimate a sales suppression and arrived at the sales turnover to tax at 5%. The petitioner filed a detailed objection pointing out the actual difference between the figures reported in the returns filed by them and the figures arrived at in the notice dated 06.01.2015 along with statements as well as documentary evidences including extracts from their purchase and stock registers relating to the period from 01.04.2014 to 30.09.2014. The petitioner also sought for an opportunity of personal hearing to put forth his case. The respondent without affording any opportunity of personal hearing to the petitioner passed the impugned order. Hence, the petitioner is before this Court with this Writ Petition.

4. Learned Counsel for the petitioner vehemently contended that granting of opportunity is the basic principles of natural justice and despite specific request made by the petitioner, the said opportunity was not granted.

5. I have heard the learned Additional Government Pleader (T) appearing for the respondent who was directed to get instructions with regard to the opportunity granted in respect of the petitioner.

6. The learned Additional Government Pleader on instructions fairly submitted that no such opportunity was granted to the petitioner.

7. Hence, it is appropriate to set aside the impugned order for granting one more opportunity. Accordingly, the impugned order is set aside and the matter is remanded back to the respondent for passing fresh orders. The petitioner shall produce all the required documentary evidences along with additional objections if any to the respondent within two weeks from the date of receipt of a copy of this Order and on such filing, the same shall be considered and necessary orders shall be passed by the respondent within four weeks thereafter. No costs. Consequently, connected Miscellaneous Petition

is also closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

tsi

To

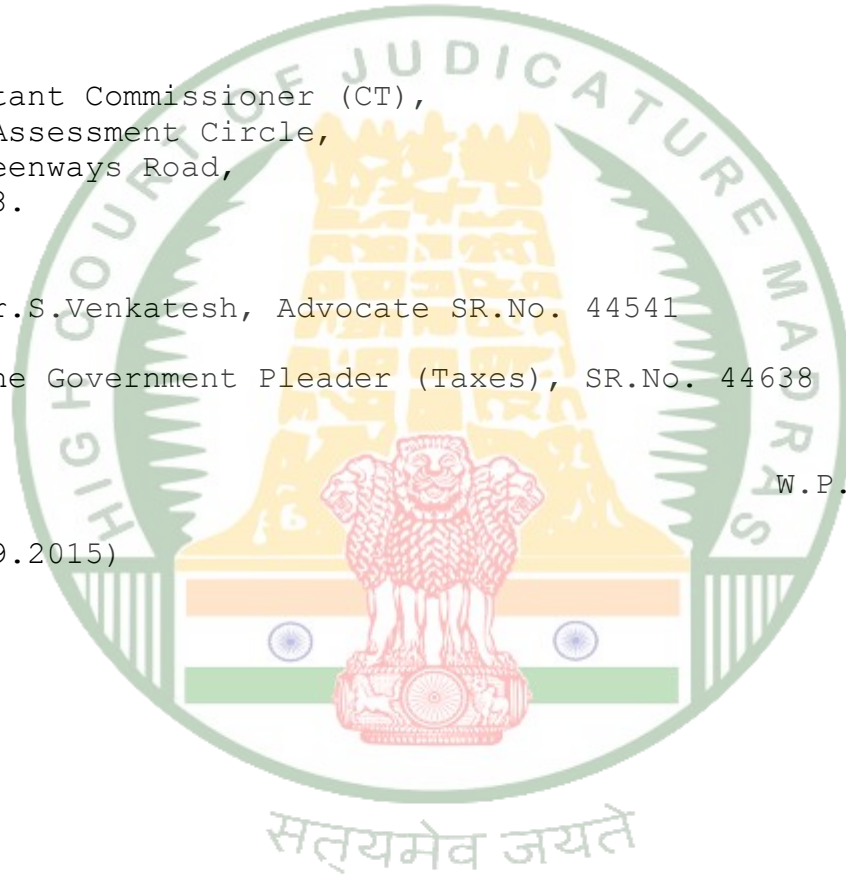
The Assistant Commissioner (CT),
Mylapore Assessment Circle,
No.46, Greenways Road,
Chennai-28.

1 CC to Mr.S.Venkatesh, Advocate SR.No. 44541

1 CC to the Government Pleader (Taxes), SR.No. 44638

VGI (CO)
PSI (07.09.2015)

W.P.No.15767 of 2015



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