IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.18830 of 2015
and M.P.No.1 of 2015

M/s.Techno Drives and Controls [Petitioner]
Rep. by its Partner Mr. Murali Srinivasan
No.21/121 4th Street Metro Nagar
Alapakkam Porur Chennai-116.

Vs

The Assistant Commissioner(CT)
Porur Assessment Circle
No.65/1 Kundrathur Main Road
Madanamandapam, Chennai-125. [Respondent]

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus To call for the records of the respondent in CST/875606/2010-11 quash the impugned proceedings dated 09/02/15 and further direct the respondent to grant an opportunity to show cause and explain by filing objections to the erroneous reasoning given by him in the impugned order that form C furnished by the Tamilnadu Dealer cannot be rejected in view of settled position of law.

For Petitioner : Mr.V.Sundareswaran

For Respondent : Mr.V.Haribabu, AGP (Taxes)

O R D E R

Heard the learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader (Taxes), who took notice for the respondent and with their consent, the main writ petition itself is taken up for hearing at the admission stage itself.

2. This writ petition has been filed challenging the impugned proceedings in CST/875606/2010-11 dated 09/02/15 passed by the respondent and to further direct the respondent to grant an opportunity to show cause and explain by filing objections to the erroneous reasoning given in the impugned order that form C furnished by the Tamilnadu Dealer cannot be rejected in view of settled position of law.

3. The learned counsel for the petitioner would submit that the petitioner, who is a registered dealer on the files of the respondent under the provisions of the Tamil Nadu Value Added Tax, 2006 (hereinafter referred to as "the Act") and under the Central Sales Tax Act, 1956 (hereinafter referred to as "CST"), dealing in manufacture and sale of "Control Panels" and in the course of their business, M/s Shriram Epc Limited, Chennai, placed an order in Ref.No.1000003722 dated 26.10.2010 on the petitioner for supply of control panel to M/s Orient Green Power Company (Rajasthan) Limited, Rajasthan. Accordingly, the petitioner supplied those materials through M/s Shriram Epc Limited, Chennai to be delivered at Rajasthan and received "C" form No.1408470 and produced the same to the respondent for consideration for passing appropriate assessment order for the assessment year 2010-11. The respondent issued pre-assessment notice dated 10.12.2014, for which, the petitioner filed objections and also produced necessary "C" form. The "C" form in dispute, which the petitioner obtained from M/s Shriram Epc Limited, Chennai, was produced before the respondent with proper explanation. The Assessing Authority, in turn, rejected the same summarily by stating that such "C" form was obtained only from the local dealer without referring to Rule 12(6) of the Central Sales Tax (Registration and Turnover) Rules, 1957 and the explanation clause. Hence, the learned counsel for sought to quash the impugned order.

4. The learned Additional Government Pleader has not refuted the contentions of the counsel appearing for the petitioner.

5. At this juncture, it is useful to extract below Rule 12(6) of the Central Sales Tax (Registration and Turnover) Rules, 1957:-

> "12(6) Form "C" referred in sub-rule (1), or the case may be, Form 'F' referred to in sub-rule (5), shall be the one obtained, by the purchasing dealer or, as the case may be, the transferee in the State in which the goods covered by such form are delivered.
>
> Explanation: Where, by reason of the purchasing dealer not being registered under Section 7 in the State in which the goods covered by Form 'C' referred to in sub-rule (1) are delivered; he is not able to obtain the said form in the State, Form 'C' may be the one obtained by him in the State in which he is registered under the said section".

6. From a perusal of the above section, it is crystal clear that if the "C" Form is obtained from the local dealer, who has got registration and there is no registration in the State, for which the

goods are meant for, the petitioner can very well produce the said "C" Form for passing appropriate orders by the assessing authority. Without considering the said provision and explanation provided thereunder, without affording an opportunity to the petitioner, the assessing authority has passed the impugned order, which is tested before this Court in this writ petition.

7. Hence, for the reasons stated above, the impugned order dated 09.02.2015 passed by the respondent in CST/875606/2010-11 is set aside and the matter is remanded to the respondent for providing an opportunity to the petitioner to show, explain and produce necessary documents to the satisfaction of the authority, who shall consider the same and pass orders in the light of the provisions and Rule 12 (6) of the Central Sales Tax (Registration and Turnover) Rules, 1957 and the explanation provided thereunder. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

The writ petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

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s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner(CT)
Porur Assessment Circle
No.65/1 Kundrathur Main Road
Madanamandapam, Chennai-125.

+ 1 cc to Mr.V.Sundareswaran, Advocate SR 40894

+ 1 cc to Spl.Govt. Pleader (Taxes) High Court, Madras SR 40701

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