

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.20036 of 2015

and

M.P.No.1 of 2015

Sunstrike Telecom Private Limited
(Formerly known as S.M.A.Impex Pvt. Ltd
represented by its Authorized Signatory
Sharad Mishra
No.54 (Old No.40), Kasi Estate,
4th Street, Ashok Nagar
Chennai 600 093

[Petitioner]

Vs

Commercial Tax Officer
Nolambur Assessment Circle
No.176, MTH Road
Villivakkam, Chennai 600 049

[Respondent]

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the records relating to impugned proceedings of the respondent passed in CST No.983322/2013-2014 dated 28.05.2015 and quash the same in so far as the assessment of Turnover of Rs.3,01,96,483/- @ 14.5% instead of 2% and further direct the respondent to accept the "C" declaration forms already filed for the turnover of Rs.3,01,96,483/-.

For Petitioner : Mr.N.Murali

For Respondent : Mr.S.Manoharan Sundaram,
AGP (Taxes)

O R D E R

Heard the learned counsel for the petitioner and Mr.S.Manoharan Sundaram, learned Additional Government Pleader (Taxes), for the respondent.

2. This writ petition has been filed challenging the impugned proceedings of the respondent passed in CST No.983322/2013-2014 dated 28.05.2015 in so far as the assessment of Turnover of Rs.3,01,96,483/- @ 14.5% instead of 2% and further direct the respondent to accept the "C" declaration forms already filed for the turnover of Rs.3,01,96,483/-.

3. According to the learned counsel for the petitioner, the petitioner is a private limited company incorporated under the Companies Act and a registered dealer on the files of the respondent both under the Tamil Nadu Value Added Tax, 2006 (hereinafter referred to as TNVAT Act) and Central Sales Tax Act, 1956 (hereinafter referred to as the CST Act, 1956). The petitioner Company, originally carried on the business in the name and style of S.M.A.Impex Private Limited, later on, the name of the company was changed to Sunstrike Telecom Private Limited with effect from 06.01.2010. Necessary mandatory certificate was also obtained from the Registrar of Companies. The said certificate was handed over to the then respondent viz., Commercial Tax Officer, Koyembedu Assessment Circle, on 12.03.2010. Even thereafter, the then Commercial Tax Officer, did not cause any change in their records. Due to re-organisation of assessment circle, the petitioner's assessment circle was changed from Koyembedu to Nolambur with effect from 01.07.2014. The present respondent has denied to accept the said name change and had given the benefit only with effect from 02.03.2015. Therefore, according to the learned counsel for the petitioner, the assessment order passed on 28.05.2015 for the assessment year 2013-14 in the name of SMA Impex Private Limited, denying to accept the declarations in Form C filed in the name of Sunstrike Telecom Private Limited cannot be sustainable and therefore the petitioner is before this Court.

4. Admittedly, the petitioner's original name is Tvl.SMA Impex Private Limited. Subsequently, the same was changed as Sunstrike Telecom Private Limited on 06.01.2010, by obtaining necessary certificate from the Registrar of Companies, which was handed over to the Commercial Tax Officer, Koyambedu Assessment Circle on 12.03.2010. Even thereafter, the said Commercial Tax Officer did not cause any change in their records. Thereafter, the assessment circle got changed into Nolambur Assessment Circle due to re-organization of

assessment Circle through G.O.Ms.No.23 of 2014. When that being the case, for the assessment year 2013-14, since the name of the Company viz, SMA Impex Private Limited differs from the present name of the Company Sunstrike Telecom Private Limited, the declarations in Form C filed by the petitioner in the name of SMA Impex Private Limited came to be rejected by the Commercial Tax Officer, Nolambur Assessment Circle, for the reason that the delay caused by the respondent department cannot be a reason for rejection of "C" forms.

5. This Court, in W.P.No.23007 of 2015 by order dated 24.08.2015 has directed the respondent herein to incorporate the name of the petitioner Company viz., Sunstrike Telecom Private Limited from 12.03.2010.

6. In view of the above, the impugned order dated 28.05.2015 is set aside and the matter is remitted back to the respondent for passing orders afresh. It is made clear that the respondent is directed to accept the "C" forms filed by the petitioner and thereafter pass appropriate orders on merits and in accordance with law.

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

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

Commercial Tax Officer
Nolambur Assessment Circle
No.176, MTH Road
Villivakkam, Chennai 600 049

2 CCs to Mr.N.Murali, Advocate SR.No. 44932
1 CC to the Spl. Government Pleader (Taxes), SR.No. 45113

W.P.No.20036 of 2015

CTK (CO)
PSI (09.09.2015)