IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.22251 & 22252 of 2015
and
M.P.Nos.1 & 2 of 2015

M/s Minda Distribution and Services Ltd.,
represented by its General Manager
(Finance & Accounts)
No.40 & 41, 3rd Main Road
Srikrishna Nagar
Maduravoyal
Chennai 600 095 .. Petitioner in both the writ petitions

-vs-

1. The Assistant Commissioner (CT)
Vanagaram Assessment Circle
Chennai

2. The Branch Manager
H-I Model Town-III Branch
ICICI Bank Ltd.,
Delhi 110 009 .. Respondents in both the writ petitions

Petitions under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the first respondent in TIN/33751351665/2013-14 & 2014-15 and quash the impugned orders dated 10.6.2015 as passed in violation of principles of natural justice and to further direct the first respondent to consider the objections filed by the petitioner and pass fresh assessment orders after granting reasonable opportunity to the petitioner including a personal hearing.

For Petitioner :: Mr.P.Rajkumar

For Respondents :: Mr.S.Kanmani Annamalai
Addl.Government Pleader (Taxes)
for R1

ORDER

These writ petitions have been filed by M/s Minda Distribution and Services Limited challenging the impugned orders dated 10.6.2015 passed by the first respondent-Assistant Commissioner (CT), Vanagaram Assessment Circle in TIN No.33751351665 on the ground that when the petitioner was issued with the notice dated 11.5.2015 in respect of the assessment year 2014-15 and the notice dated 12.5.2015 in respect of the assessment year 2013-14 inviting objections, if any, within 15 days with regard to the proposals to assess the alleged purchase suppression to the tune of Rs.2,09,27,439/- at 14.5% in respect of the assessment year 2013-14 and the entire sale turnover of Rs.27,90,48,588/- at 14.5% in respect of the assessment year 2014-15, on receipt of the said notices, the petitioner approached the first respondent on 25.5.2015 seeking another 15 days time to file the detailed objections. It is also the further grievance of the petitioner that when the request letters dated 25.5.2015 seeking 15 days further time remained unanswered one way or other by the first respondent, the petitioner rightly approached the first respondent well before the expiry of 15 days time on 12.6.2015 with full-fledged objections. But the petitioner has been informed that the orders have been passed on 10.6.2015. In the above background, it has been contended by the learned counsel for the petitioner that when the petitioner has not even dragged on the matter by seeking time repeatedly, the prayer for grant of 15 days time to file replies, in all fairness, could have been considered by the first respondent. Concluding his arguments, he also submitted that in any event, the petitioner had filed the objections on 12.6.2015 and undoubtedly the first respondent had also received the same, therefore, there is no impediment for the first respondent to re-consider the matter for passing final assessment orders on consideration of the objections, failing which the petitioner will be put to unimaginable hardship.

2. Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) taking notice for the first respondent, refuting the claim of the petitioner, submitted that after the notices were issued on 11.5.2015 & 12.5.2015 inviting objections, if any, within 15 days from the date of receipt of the notices, the petitioner, only at the eleventh hour, after making use of the 15 days time, had sent the letters dated 25.5.2015 seeking further time of 15 days. When the first respondent has chosen to pass the final orders only on 10.6.2015, the petitioner cannot find fault with the impugned orders.

3. This Court hardly finds any justification in the submission or in the approach adopted by the first respondent. The reason is that, as mentioned above, on receipt of the notice dated 11.5.2015 in respect of the assessment year 2014-15 and the notice dated

12.5.2015 in respect of the assessment year 2013-14, the petitioner has rightly sent the letters dated 25.5.2015 well before the expiry of 15 days time mentioned in the aforesaid notices. Subsequently, it appears that the first respondent has remained mum without answering the request letters dated 25.5.2015 seeking only a reasonable time of 15 days. Therefore, it goes without saying that the petitioner is entitled to presume that 15 days time asked for has been granted. That apart, the petitioner has also filed the detailed objections on 12.6.2015 well within the 15 days time sought for in the letters dated 25.5.2015. But the first respondent, having acknowledged the receipt of the request letters dated 25.5.2015 seeking time of 15 days to file objections, has wrongly mentioned that the petitioner asked for only 10 days time. That apart, the findings given by the first respondent do not appeal to this Court, therefore, the impugned orders are liable to be set aside. Accordingly, the impugned orders and the orders of attachment are set aside by directing the first respondent to reconsider the matter on merits and in accordance with law expeditiously after giving personal hearing to the petitioner. The writ petitions are allowed. Consequently, M.P.Nos.1 & 2 of 2015 are closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Commissioner (CT)
Vanagaram Assessment Circle
Chennai

2. The Branch Manager
H-I Model Town-III Branch
ICICI Bank Ltd.,
Delhi 110 009

1 cc to Mr.P. Rajkumar, Advocate, sr. 37486

W.P.Nos.22251 & 22252 of 2015

CTK (CO)
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