IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2015

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.26263 of 2015
and
M.P.No.1 of 2015

Tvl.Sree Rajalakshmi Finance rep. by
its Partner A.Venkataraman .. Petitioner

Vs.

The Assistant Commissioner (CT),
Gugai Assessment Circle,
Salem. .. Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorari to call for the records on the file of the respondent herein in C.S.T. No.404315/2010-11 dated 06.08.2015 and quash the same.

For Petitioner .. Mr.N.Inbarajan

For Respondent .. Mr.A.N.R.Jayapratap,
Govt. Advocate (T)

ORDER

Challenging the order of the respondent 06.08.2015, the petitioner has filed this writ petition.

2.The petitioner is a dealer in sago and starch and registered dealer on the file of the respondent. The petitioner is effecting inter-state sales to registered dealers covered under Section 8(1) of the CST Act apart from effecting sales to dealers falling under Section 8(2) of CST Act. Though the returns filed by the petitioner were accepted and acted upon by the respondent, the assessment for the year 2010-2011 was completed on a self-assessment basis as provided under Section 22(2) r/w 9(2) of CST Act. The respondent passed the impugned order, accepting the C declaration to an extent of Rs.66,13,948/- and disallowed the concessional rate of tax and levied the tax at the higher rate of tax on Rs.4,94,100/-. According to the petitioner, no notice whatsoever was issued before passing the impugned order. Hence the present writ petition.

3.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent.

4.On the basis of self-assessment, the impugned order came to be passed on 06.08.2015, whereby the claim of concessional rate of tax was disallowed for non-production of C Form declaration. The learned counsel appearing for the petitioner submitted that had the petitioner been given an opportunity to produce C Form declaration before rejecting the claim, the petitioner would have filed the same. He would further submit that yet another opportunity may be given to the petitioner and seeks appropriate direction.

5.The learned Government Advocate, on instructions, would submit that if the C Forms are available with the petitioner, the same will be accepted by the authorities.

6.To give quietus to the matter, the impugned order is set aside and the matter is remitted back to the respondent for passing fresh orders. The petitioner is permitted to produce all the necessary documents before the authority within a period of two weeks from the date of receipt of a copy of this order and on such production of documents, the respondent is directed to consider the same and pass appropriate orders within a period of four weeks thereafter. The writ petition is disposed of accordingly. no costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

mmi
To

The Assistant Commissioner (CT),
Gugai Assessment Circle,
Salem.

1 cc to Spl.Government Pleader(Taxes).Sr.No.48938
1 cc to Mr. N.Inbarajan, Advocate Sr.No.48707

W.P.No.26263 of 2015

tm(co)
pmk.6.10.2015