IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.32382 & M.P.No.1 of 2015
and
W.P.No.32383 of 2015

M/s. Talbros Automotive Ltd
Rep. by its General Manager No.22/B
Developed Plot Sidco Industrial Estate
Chennai - 600 098 ..Petitioner in both Wps.

Vs

The Commercial Taxes Officer
Pattravakkam Assessment Circle No.5 1st
High Court Colony Villivakkam
Chennai - 600 049. ..Respondent in both WPs

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorari mandamus to call for the records of the impugned orders of re-assessment in CST No. 46835/2012-13 dt.31.08.2015 and CST No. 46835/2013-14 dated 29.05.2015 from the files of the respondent herein quash the same.

For Petitioner : Mrs.Aparna Nandakumar

For Respondent : Mr.S.Kanmani Annamalai,
Addl. Govt. Pleader (T)

COMMON ORDER

These writ petitions have been filed, challenging the impugned orders of re-assessment in CST No. 46835/2012-13 dated 31.08.2015 and CST No. 46835/2013-14 dated 29.05.2015 from the files of the respondent herein.

2.1. The case of the petitioner is that the petitioner company is a registered dealer under the provisions of Tamil Nadu Value Added Tax Act,2006 and also under the Central Sales Tax Act. The petitioner effected inter-State sales against C-Forms and also effected stock transfer to other states. It is submitted that while so, for the CST assessment years 2012-13 and 2013-14, the petitioner herein filed monthly returns claiming concessional rate of tax at 2% on inter-State sales against C-Forms and Form-F declarations.

2.2. Due to depleting business, the petitioner passed a board resolution to close down the plant in Tamil Nadu after giving statutory notices to the Labour Commissionerate and immediately filed an application for amendment of the TIN certificate for inclusion of additional place of business. Since there was labour unrest, the petitioner made a request to take early action in this regard. While so, all of a sudden, the petitioner was faced with debit entry in the petitioner's bank to an extent of Rs.40,27,921/- from their current account in the State Bank of India, Ambattur Branch. Later on, they came to know that the respondent herein had issued notice of attachment dated 15.07.2015 and withdrawn the said amount by order dated 27.07.2015. Subsequently, the petitioner also came to know that the impugned order of re-assessment for CST assessment year 2012-13 dated 31.08.2015 and for 2013-14 dated 29.05.2015 had been sent by registered post and had been received by the security person in the factory premises. Questioning, the legality committed by the authority, the writ petitioner has been filed.

3. Heard the submissions of the learned counsel for the petitioner as well as Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) appearing on behalf of respondent.

4. According to the learned counsel for the petitioner, for non submission of Form C as well as Form-F, the Assessment Order came to be passed. The learned counsel for the petitioner further submitted that the entire business operation due to labour unrest was shifted to yet another place for which necessary application as well as fee for registration were submitted to the authorities concerned. The learned counsel further submitted that without considering the same, no communication for the passing of the impugned order of assessment was made and the petitioner was also not given an opportunity to produce required Form C as well as Form-F for the purpose of completing the assessment.

5. On the other hand, the learned counsel appearing on behalf of the respondent after verifying the assessment files submitted that no proper service of notice has been effected to the registered address. He also fairly submitted that the issue is related to non-production of Form C as well as Form-F, the petitioner may be afforded an opportunity for producing the same. When such being the admitted position, the merits of the case need not be gone into.

6. In view of the above, the impugned orders of re-assessment in CST No. 46835/2012-13 31.08.2015 and CST No. 46835/2013-14 dated 29.05.2015 are quashed and the matter is remitted back to the Assessing Authority for passing appropriate orders afresh. The petitioner is directed to produce required Form C as well as Form-F to the respondent within 2 weeks from the date of receipt of the copy of this order. On production of the same, necessary orders be passed on merits after affording due opportunity to the petitioner, within 6 weeks thereafter.

7. With the above directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneou petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Commercial Taxes Officer
Pattravakkam Assessment Circle No.5 1st
High Court Colony Villivakkam
Chennai - 600 049.

+2ccs to M/s. Aparna Nandakumar, Advocate, S.R.No.57342
+1cc to the Government Pleader, S.R.No.57623

SVI(CO)
EU(30/10/2015)

W.P.Nos.32382 & 32383 of 2015